

INDEX OF MEMORANDA

A-528

Administrative Appeal

No.

- 1) Administrative Review Application
- 2) Receipt of Application Fee
- 3) Stipulation
- 4) Petitioner's Statement, February 14, 2007
- 5) Letter to Cathy Borten, Esq. from Robert Harris, February 2, 2007
- 6) Electrical Permit #PI-E070013
- 7) Rental Housing License for 72-A West Deer Park Road, expires 1/31/07
- 8) Multi-Family Rental Facility License Application, 11/06/06, signed by Robert Copeland
- 9) Copy of Check to City of Gaithersburg for \$19,800.00 for Rental License Application
- 10) Hercules Real Estate Services, Rental Listing for West Deer Park Apartments
- 11) Gaithersburg City Code, Chapter 18AA, Rental Housing Licensing
- 12) Gaithersburg City Code, Selected Provision of Chapter 24, Zoning Ordinance
- 13) Letter to Scott Copeland from Fred Felton, November 8, 2006
- 14) Administrative Review Application A-526, filed November 11, 2006
- 15) Statement of Case, Administrative Review A-526, November 22, 2006
- 16) List of Adjoining and Confronting Property Owners
- 17) Certified Copy of City of Gaithersburg Zoning Map
- 18) Letter requesting publication of Notice of Public Hearing for A-528 in the March 28, 2007 issue of the *Gaithersburg Gazette*

- 19) Notice of Administrative Review, as sent on March 28, 2007
- 20) List of Parties Notified
- 21) Draft Resolution of Dismissal

BOARD OF APPEALS

ADMINISTRATIVE REVIEW APPLICATION

In accordance with Chapter 24, Article VII, Section 24-187 thru 190 of the City Code

Application No. A-528
 Date Filed 2/15/07
 BOA Hearing _____
 Decision _____
 Date of Decision _____
 Opinion Rendered _____

SUBJECT PROPERTY West Deer Park Apartments

ADDRESS 70 West Deer Park Road

ZONING CLASSIFICATION R-20

LOT Parcel ABLOCK

SUBDIVISION KRA-GARR Gardens

APPLICANT WDP-RST LLC

TELEPHONE (301) 816-4242

ADDRESS 6001 Montrose Road, Suite 710, Rockville, MD 20852

If there are co-applicants, provide additional sheet(s) with names, addresses and phone numbers.

NATURE OF APPLICATION

Briefly describe application request **referencing appropriate section of City Code.**

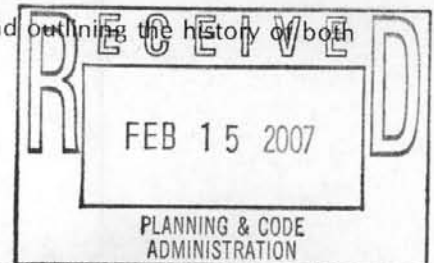
Appeal of Determination by The City of Gaithersburg requiring approval of site plan amendment for renewal of license to rent pursuant to Section 18AA-6, 18AA-5, 18AA-11, 24-218(a) 24-17, 24-18, 24-19, 24-168.

List case numbers of all applications filed within the past three (3) years pertaining to any portion of subject property.

A-526; SP-05-0010

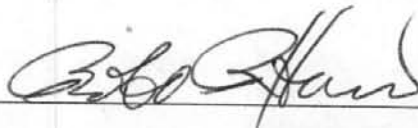
SUBMISSION REQUIREMENTS

1. **A written statement** explaining the grievance to the Board of Appeals and outlining the history of both applicant's and City's actions in regards to the subject property.
2. **Supporting documentation**, see list on reverse side.
3. **Fees**, see separate schedule.
4. **Transcript costs** (to be charged after completion).



I have read and complied with the submission requirements and affirm that all statements contained herein are true and correct.

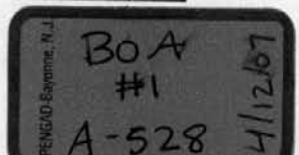
Signature



Date

2/14/07

If there are co-applicants, attach additional signature page(s) with signatures and printed names and addresses.



SUBMISSION CHECKLIST

In accordance with Chapter 24, Article VII, Section 24-188(3) of the City Code

1. ☐ **Written statement explaining grievance** and outlining histories of both petitioner's and City's action in regards to subject parcel. This statement should demonstrate why, in the petitioner's opinion, the Planning Commission and/or Staff decision in question was in error.
2. ☐ **The action, document, and all records** upon which the appeal is filed or based. (Files of a Planning Commission action shall be submitted by Planning Commission Staff following the filing of an Administrative Review.)
3. ☐ **Copy of official zoning vicinity map** with a one-thousand-foot radius (circle) surrounding the subject property and other information to indicate the general conditions of use and existing improvements on adjoining and confronting properties. (Zoning maps available from the Planning and Code Administration.)
4. ☐ **List of names and addresses of adjoining and confronting property owners or occupants** within two hundred (200) feet of the subject property; if such property is a condominium, cooperative or is owned by a homeowners' association the petitioner must provide their correct address and that of their resident agent. (Information can be researched in the Planning and Code Administration.)
5. ☐ **A list of names and addresses of persons whom you wish to be notified of the public hearing**, other than adjacent property owners.
6. ☐ **Required fee.** (Check where applicable. See fee schedule.)
 - ☐ Planning Commission Decision
 - ☐ Staff Decision
7. ☐ **Cost of transcripts.** (Transcript costs are billed in accordance with fee schedule.)

CRITERIA

In accordance with Chapter 24, Article VII, Section 24-189(a) of the City Code

The Board of Appeals may grant a petition for Administrative Review when findings from the evidence of record that final order, requirement, decision or determination which is the subject of the appeal was clearly erroneous or not in accordance with the law.

Please note: Section 24-188(f) of the City Code stipulates that appeals alleging error by the Planning Commission shall be by oral argument or written statement based **solely** on evidence submitted and received in the Planning Commission proceedings.

MISCELLANEOUS PAYMENT RECPT#: 37405
CITY OF GAITHERSBURG
31 SOUTH SUMMIT AVE.
GAITHERSBURG MD 20877-2098

DATE: 02/16/07 TIME: 11:13
CLERK: pwoodruf 1
CUSTOMER#:

PARCEL:

CHG: MISC OTHER MISCELLAN 1000.00

REVENUE:

1 100 441300 1000.00

ZONING/SUBDIVISION FEES

REF1: ADMIN REVI REF2: EW - BOA

CASH:

001 101000 CASH-BANK OF

1000.00 PAID AMT

100 PAID BY NAME
RST III LLC PAY METHOD
CHECK

2159

AMT TENDERED: #2159

AMT APPLIED: 1000.00

CHANGE: 1000.00



Gaithersburg

A CHARACTER COUNTS! CITY

CITY OF GAITHERSBURG

31 SOUTH SUMMIT AVENUE, GAITHERSBURG, MARYLAND 20877
301-258-6330

RECEIPT

FROM

NAME

ADDRESS

FOR

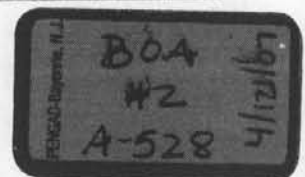
TOTAL AMOUNT

\$ 1,000.00

DATE

BY

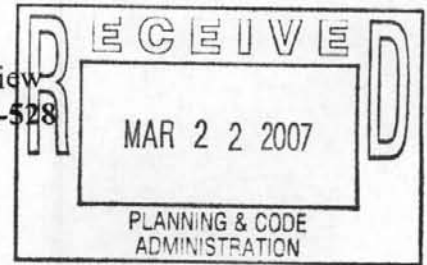
09/04



BEFORE THE BOARD OF APPEALS FOR THE CITY OF GAITHERSBURG

IN THE MATTER OF
RST DEVELOPMENT, LLC
(WEST DEER PARK APARTMENTS)

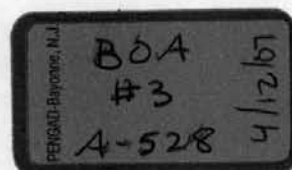
Administrative Review
Application Case A-528



STIPULATION

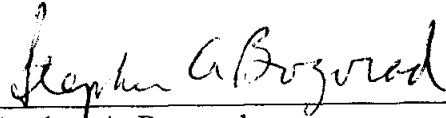
RST Development, LLC ("Petitioner") and the City of Gaithersburg Planning & Code Administration ("Respondent"), parties in the above referenced administrative appeal, through undersigned counsel, hereby stipulate as follows:

1. The subject of this appeal, the oral communication regarding the issuance of a rental license to the Petitioner, provided in the January 29, 2007 telephone call by Mr. Kevin Roman, Neighborhood Services Director for the City of Gaithersburg, was not a final decision on the rental license issue.
2. The City provided an official, final decision on that issue in a letter from Greg Ossont, Director, Planning & Code Administration, dated February 22, 2007, which letter is the subject of Administrative Review Application A-529.
3. Mr. Ossont's February 22, 2007 letter, and the filing of Administrative Review Application A-529 seeking review of that decision, render Administrative Review Application A-528 moot.
4. Therefore, the parties further stipulate that, although Applications A-528 and A-529 are both scheduled for hearing on April 12, 2007, no testimony, evidence and/or argument will be submitted at the April 12, 2007 hearing on Administrative Review Application A-528; the parties will submit testimony, evidence and/or argument on Administrative Review Application A-529 only.



5. The parties will file Pre-Hearing Submissions in Administrative Review Application A-529 only.

Respectfully submitted,



Stephen A. Bogorad
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, D.C. 20006
(202) 457-7170

Robert R. Harris
Holland & Knight LLP
3 Bethesda Metro Center
Suite 800
Bethesda, MD 20814
Counsel for Petitioner

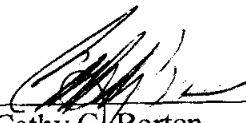


Cathy G. Borten
City Attorney
City of Gaithersburg
31 S. Summit Avenue
Gaithersburg, MD 20877
301-258-6310
Counsel for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Prehearing Statement was served this 22nd day of March, 2007, by first class mail, postage prepaid, to:

William J. Chen, Jr., Esq.
Counsel to the Board of Appeals
200 Monroe Street
Suite 300
Rockville, Maryland 20850



Cathy G. Borten

4432235_v2

**BEFORE THE BOARD OF APPEALS
FOR THE CITY OF GAITHERSBURG, MARYLAND
APPEAL CHARGING ERROR IN
ADMINISTRATIVE ACTION OR DETERMINATION**

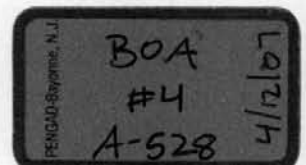
COMES NOW, WDP-RST LLC ("RST"), by its attorneys, and submits the following appeal of the City of Gaithersburg's refusal to issue a Rental Housing License for the multifamily apartment project located at 70 West Deer Park Road, Gaithersburg, Maryland:

STATEMENT OF THE CASE

RST is the owner of certain land and improvements located at 70 West Deer Park Road, Gaithersburg, Maryland and known as West Deer Park Apartments (the "Apartment Project"). The Apartment Project is classified in the R-20 zone (medium density residential) and is developed with multi-family residential buildings that contain 198 dwelling units. These units have been operated as rental apartments since their construction in 1973.

RST purchased the Apartment Project in 2005 and obtained Site Development Approval from the Planning Commission for the redevelopment of the Apartment Project with 130 townhouse units on January 4, 2006. The tenants of the Apartment Project were relocated to facilitate the redevelopment of Apartment Project for townhouses. However, significant declines in the residential housing market and increases in the costs of construction have adversely impacted such proposed redevelopment and therefore RST decided not to proceed with the redevelopment. Instead, RST decided to renovate the existing structures and to continue to operate the Apartment Project as rental apartments in accordance with an existing use and occupancy permit and a then existing rental license (the "Apartment Project"). The renovation work RST plans to perform includes the installation of new cabinets, carpeting and other improvements, but does not involve any structural modifications, changes in the overall number of dwelling units, or increases in the exterior dimensions of, or usable space within, the existing buildings.

RST discussed its proposed renovations of the Apartment Project with City Staff, and City Staff initially agreed with RST that RST would not be required to obtain any approvals from the City to renovate the Apartment Project and continue its operation and occupation as rental apartments. RST made preliminary arrangements to commence the planned renovation of the Apartment Project, but before RST could commence the work, City Staff advised RST that the City *might* take the position some sort of City approval would be required before RST could reoccupy the Apartment Project with tenants. Subsequently, in a meeting that included outside counsel to the City and counsel to RST, outside counsel to the City expressed his belief that RST would need to obtain approval of a site development plan amendment before the Apartment Project could be reoccupied. The City's counsel stated that the basis for this belief was his view that the existing Apartment Project constituted a non-conforming use by virtue of the fact that the number of parking spaces for tenants was slightly less than the number of spaces that would be required under the current City Zoning Code if the existing structures were built today. In a



letter from the Assistant City Manager to RST dated November 8, 2006, the Assistant City Manager advised RST that "the City Attorney's office has determined that you must obtain approval for site plan amendment from the Planning Commission prior to being permitted to reoccupy the existing dwellings at West Deer Park Apartments." See Exh. 1.

Although the November 8, 2006 letter did not appear to be a final decision, and it solicited questions about the City Attorney's position and invited further discussion between RST and the City on the matter, RST, out of an abundance of caution, filed an appeal with the Board of Appeals of the November 8, 2006 letter on November 22, 2006, to be certain that RST was not deemed to have waived its right to challenge the position taken by the City Attorney. See Exh. 2. The City filed a motion to dismiss the appeal on the grounds that it was filed beyond the 17 day appeal period, which began to run when the City's determination was communicated to RST at a meeting on October 23, 2006. The Board of Appeals scheduled a hearing on January 11, 2007, at which time the Board of Appeals conducted an evidentiary hearing on a motion to dismiss. The Board of Appeals ruled that the appeal was not untimely, but it nonetheless dismissed the appeal on the grounds that it was premature. Specifically, the Board of Appeals found that the November 8, 2006 letter was not a final decision of the City, and that as of the close of the hearing on the evening of January 11, 2007, there had still not been a final decision by the City with respect to whether approval of a site development plan amendment would be required before the Apartment Project could be reoccupied. Following the hearing, counsel for the City advised RST's counsel that the City would, shortly after the February 8, 2007 meeting of the Board of Appeals, issue a final written decision with respect to whether the City would require an approval of a site development plan amendment as a prerequisite to the reoccupation of the Apartment Project but, to date, no subsequent final decision has issued.

While awaiting the City's final decision, and consistent with its right to continue to use the Apartment Project for multifamily rental use, on January 18, 2007, RST's electrician was granted a Temporary Power Permit, Permit # PI-EO70013, authorizing the electrician to perform work necessary for RST to restore power to the Apartment Project. See Exh. 3. After the City issued the permit, RST's electrician performed the necessary work in accordance with the Code. The City was scheduled to inspect the work, which inspection is a pre-requisite for restoration of electrical power, on Monday, January 29, 2007. On Friday, January 26, 2007, the City informed RST's electrician that the City would not perform the inspection due to issues unrelated to the permit. Since the City's refusal to inspect the work was based on reasons unrelated to the permit, RST assumed that such refusal was based on the City's stated, but not yet final position that RST needs to obtain approval of a site development plan amendment before RST may reoccupy the Apartment Project. Shortly thereafter, in response to a letter from RST's counsel complaining about the City's wrongful refusal to inspect the work performed by RST's electrician, the City reversed itself and scheduled the necessary inspection. On February 7, 2007, the City inspector approved the work performed by RST's electrician, clearing the way for RST to restore electricity to the Apartment Project and to commence renovations in the Apartment Project.

The Rental Housing License for the Apartment Project in force (issued to the prior owner of the Apartment Project) when RST acquired the property was set to expire on January 31, 2007. See Exh. 4. RST filed the appropriate papers, along with a check in the amount of \$19,800.00, to obtain issuance of a new Rental Housing License. See Exh. 5. The City never

returned the \$19,800.00 check RST sent in connection with the renewal license. On Monday, January 29, 2007, Kevin Roman, a City employee, informed RST that the City would not renew RST's license to rent the apartments at the Apartment Project because the City no longer recognized the Apartment Project as property that can be utilized as an apartment complex. Mr. Roman did not provide any other reason for the City's refusal to issue the Rental Housing License, and he stated that any questions RST had with respect to the City's position should be directed to the Director of the Planning and Code Administration, Greg Ossant, a City official with whom RST had previously communicated with respect to the City's position that a site development plan amendment was necessary.

On Friday, February 2, 2007, RST's counsel wrote to the City's counsel seeking to confirm that the City was in fact refusing to issue a Rental Housing License based on the City's position that multi-family residential use of the Apartment Project was not a permitted use. See Exh. 6. In that letter, RST's counsel stated that unless the City rescinded its refusal to renew or issue the license on or before February 6, 2007, RST would treat that refusal as a final decision. On February 9, 2007, following the City's receipt of the February 2, 2007 letter from RST's counsel, Mr. Ossant advised RST that the City would issue a letter explaining its position. The Board of Appeals further informed RST's counsel, on February 9, 2007, that they would be mailing a formal resolution concerning the Apartment Project's status as a non-conforming use. However, the City has not issued any such letter, so, out of an abundance of caution, RST is treating the January 29, 2007 phone call from Kevin Roman as a final decision, and is appealing the decision not to issue the Rental Housing License.

DISCUSSION AND ARGUMENTS

Based on various provisions of Chapter 18AA and Chapter 24 of the City of Gaithersburg Municipal Code (the "Code"), the City clearly erred in reaching its decision that RST is not entitled to issuance of a Rental Housing License.

Pursuant to Section 18AA-5, as soon as practicable after receipt of RST's application and the required fee, the city manager was required to schedule an inspection of the Apartment Project. See Exh. 7. Section 18AA-5 further provides that if the inspection discloses no violation of any applicable law or other regulation, the city manager is required to issue a final license. On the other hand, if the inspection discloses a violation, the city manager is required to notify the owner in writing of the nature of the violation and the time within which such correction shall be accomplished. The city manager is required to reinspect following corrective action, and is required to issue a final license after a reinspection evidencing a corrected violation.

Upon information and belief, upon receipt of RST's application and the required fee, the city manager did not cause an inspection to be conducted of the Apartment Project, as he was required to do. Moreover, even if an inspection was conducted, the City has not issued a Rental Housing License for the Apartment Project and has not notified RST, in writing, of the nature of any violation and the time within which such violation should be corrected. Accordingly, the City has failed to comply with its obligations under Chapter 18AA.

The grounds stated by Kevin Roman in support of the City's refusal to issue a Rental Housing License – that the City no longer recognizes the Apartment Project as a property that can be utilized for rental apartments – is not a valid reason to deny the issuance of a Rental Housing License. If an inspection of the Apartment Project revealed a violation that needed to be cured, the City was required to notify RST of the violation in writing so that RST could cure the violation. Since the City did not so notify RST of any violation, the City was required to issue a Rental Housing License.

The position espoused by the City's attorney (but not yet rendered as a final decision by the City), that use of the Apartment Project for rent to tenants is a non-conforming use because of the number of parking spaces available is similarly contrary to law. Pursuant to Section 24-218(a), the number of parking spaces required for a multi-family housing project is determined at the time the residential buildings are erected, enlarged or structurally modified. See Exh. 8. There is no requirement that an owner of property must add additional parking spaces if the City Code is amended after erection of the improvements to require additional parking for new construction, even if the property is subsequently vacated for a period of time. In this case, it is undisputed that the Apartment Project contains the number of parking spaces that were required under the Code at the time the Apartment Project was erected. It is also undisputed that the planned renovations do not include an enlargement or structural modification of the Apartment Project. Therefore, under the express language of the City Code, the Apartment Project meets the parking requirements imposed by the City Code.

Pursuant to Section 24-56 of the City Zoning Code, which identifies the uses permitted in the R-20 zone, multi-family residential uses and accessory uses such as off-street parking, are permitted by right. Rental apartment uses have always been permitted on the Property under the standards of the R-20 zone, and the continuation of such uses would likewise be permitted under the Zoning Ordinance. See Exh. 8.

The property has not undergone any change in use which would deem it a non-conforming use. The proposed renovation work on the Property does not involve any enlargement, increase, movement or structural alteration of the existing buildings. RST is simply proposing to renovate the existing structures. Therefore, pursuant to Sections 24-17, 24-18 and 24-19 of the Code, the provisions applicable to non-conforming uses do not apply. See Exh. 8. In addition, Section 24-20 allows renovation and repair work to occur even on non-conforming uses where such work does not exceed 10% of the current replacement value of the structure. The proposed work does not exceed that amount. Moreover, pursuant to Section 24-168, there is no contemplated erection, movement, addition or structural alteration to the buildings that would require a site development plan amendment. See Exh. 8. RST is simply upgrading the existing structures.

REQUEST FOR RELIEF

Pursuant to Section 18AA-11, RST respectfully requests that the Board of Appeals reverse the determination of the City that RST is not entitled to issuance of a Rental Housing

License, and that the Board of Appeals order the city manager to issue a Rental Housing License to RST for the Apartment Project. In accordance with the requirements of Charter 24, Article VII, Section 24-188(3) of the City Code, RST submits the following in conjunction with this written statement explaining its grievance: (1) all documents upon which the appeal is based, see Exhs. 1 - 8; (2) a copy of the official zoning vicinity map surrounding the property, see Exh. 9; (3) a list of the names and addresses of adjoining and confronting property owners or occupants, see Exh. 10; (4) a list of parties to be notified, see Exh. 11; as well as (4) the required fee.

Respectfully submitted,
HOLLAND & KNIGHT, LLP

By: 

Robert R. Harris, Esq.
Holland & Knight, LLP
3 Bethesda Metro Center
Suite 800
Bethesda, MD 20814

Stephen A. Bogorad, Esq.
Holland & Knight, LLP
2099 Pennsylvania Avenue, N.W.
Suite 101
Washington, DC 20006

Date: February 14, 2007

4343100_v2

Holland+Knight

Tel 301 654 7800
Fax 301 656 3978

COPY
Holland & Knight LLP
3 Bethesda Metro Center, Suite 800
Bethesda, MD 20814-6337
www.hklaw.com

Robert R. Harris
301 215 6607
robert.harris@hklaw.com

February 2, 2007

VIA HAND DELIVERY

Cathy Borten, Esq.
City Attorney
City Hall
31 S. Summit Avenue
Gaithersburg, MD 20877

Re: West Deer Park, 70 West Deer Park Road

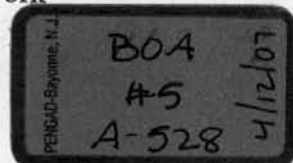
Dear City Attorney Borten:

I am writing on behalf of WDP-RST LLC ("RST"), the owner of the West Deer Park Apartments, located at 70 West Deer Park Road ("Apartment Project"). I am writing to confirm that, based on the City of Gaithersburg's ("City") belief that the use of the Apartment Project for rental to residential tenants is not a permitted use of the Apartment Project under the City's Zoning Code, the City has: (i) refused to renew the license for renting the units at the Apartment Project, which license expired January 31, 2007, and (ii) refused to inspect work completed by RST's electrician, pursuant to a permit issued by the City on January 18, 2007, that was necessary for RST to restore electrical power to the Apartment Project.

On Monday, January 29, 2007, Kevin Roman, a City employee, informed RST that the City will not renew its license to rent the apartments at the Apartment Project because the City no longer recognizes the Apartment Project as property that can be utilized as an apartment complex. Mr. Roman further stated that the City would not issue a license until the owner submitted a site development plan. Please advise me, in writing, by Tuesday, February 6, 2007, whether the City's decision not to renew or issue a license that would permit RST to rent the apartments at the Apartment Project, as conveyed to RST by Mr. Roman, is in fact the official, final decision of the City.

Consistent with RST's right to continue to use the Apartment Project for multifamily rental use, on January 18, 2007, RST's electrician was granted a Temporary Power Permit, Permit # PI-EO70013, authorizing the electrician to perform work

Atlanta • Bethesda • Boston • Chicago • Fort Lauderdale • Jacksonville • Los Angeles
Miami • New York • Northern Virginia • Orlando • Portland • San Francisco
Tallahassee • Tampa • Washington, D.C. • West Palm Beach

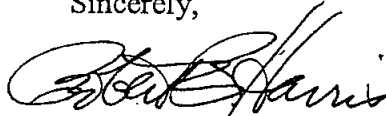


necessary for RST to restore power to the Apartment Project. After the City issued the necessary permit, RST's electrician performed the necessary work in accordance with the applicable Code. The City was scheduled to inspect the work, which inspection is a prerequisite for restoration of electrical power, on Monday, January 29, 2007. On Friday, January 26, 2007, the City informed RST's electrician that the City would not perform the inspection due to issues unrelated to the permit, and that Greg Ossont needed to be contacted with respect to the City's refusal to inspect the work. Since the City's refusal to inspect the work is, by the City's own admission, based on reasons unrelated to the permit, I assume that such refusal is also based on the City's position that the Apartment Project is a non-conforming use and that RST needs to obtain approval of a site development plan or site development plan amendment before it may reoccupy the Apartment Project. Please advise me, in writing, by Tuesday, February 6, 2007, whether the City's decision that it will not conduct an inspection of the work conducted pursuant to Permit # PI-EO70013, as conveyed to RST's electrician, is in fact the official, final decision of the City.

As you know, RST' steadfastly maintains that it has a vested right to renovate and reoccupy the Apartment Project without the need for submission or approval of a site development plan or site development plan amendment. RST is prepared to immediately commence renovation and occupancy of the Apartment Project so that it can be utilized to provide much needed rental housing. The City's ongoing interference with RST's right to renovate and rent the Apartment Project has deprived RST of any use of its property, and is causing RST to suffer significant monetary damages, including but not limited to carrying charges in excess of \$150,000 each month.

If the City does not, on or before Tuesday, February 6, 2007, rescind the decisions described above with respect to the City's refusal to renew or issue a rental license and the City's refusal to conduct the inspection of the electrical work, RST will treat those decisions as final decisions of the City and take appropriate legal actions. Please be further advised that RST intends to hold the City liable for all damages it has suffered, and continues to suffer, as a result of the wrongful actions of the City, which have deprived and continue to deprive RST of any economically viable use of the Apartment Project.

Sincerely,



Robert R. Harris

cc: David Podolsky, Esq.
Greg Ossant
Steve Bogorad, Esq.

gpr

PERMIT

Permit#: PI-E070013
Electrical Permit



Address: 72 W DEER PARK RD GB

Parcel #:

Location: 72 w deer park

Date Printed: 01/18/2007

Total Fees: \$110.00

Use Group: ALTCOM

Business Name:

Lot/Block:

Zone:

Sq.Ft.: 0

Subdivision:

Historic (Y/N): N

Const.Type:

Contact Information:

Applicant: KEN BECKSTROM
45714 OAKBROOK CT SUITE 180 DULLES VA 20166

Phone: 703-404-8100

Contractor: BECKSTROM ELECTRIC CO
45714 OAKBROOK CT #180 DULLES VA 20166

Phone: 703-404-8100 License #/Type: 1749 /ELEC

Owner: WDF-RST LLC
6001 MONTROSE RD ROCKVILLE MD 20852

Phone: 301-816-4672

Fees Paid:

Electrical: \$110.00

Amend Permit Fee: \$0.00

Revision: \$0.00

Reactivation: \$0.00

Reinspection: \$0.00

Work without Permit: \$0.00

Description of Work/Conditions:

inspection of electrical requested by PEPCO to service location.

CALL FOR ALL REQUIRED INSPECTIONS
301-3258-6338
2025

*In accordance with The National Electrical Code, all electric signs shall be UL listed and labeled and have a disconnect switch within sight of the sign.

When alterations, repairs or additions requiring a permit occur the dwelling unit shall be provided with smoke alarms located as required for new dwellings; the smoke alarms shall be in every sleeping area, in the area immediately outside of each sleeping area, and at least one smoke detector on each level. For those areas undergoing construction or alteration, the required smoke detectors shall be A/C hardwired with battery back-up. In existing spaces that are not part of the construction/alteration; the required detectors may be battery operated. In all areas of new construction and any altered areas that have sufficient demolition to facilitate wiring, the required detectors shall be interconnected.

I hereby certify that I have read and examined this permit and that all statements are true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulation construction or the performance of construction.

This permit becomes null and void if work or construction authorized is not commenced within 6 months of issue date, or if construction or work is suspended or abandoned for a period of 180 days at any time after work has commenced. Approved only as noted on plans. Call for all required inspections, (301) 258-6338. All S.D.A. conditions must be met. Fire department access must be maintained at all times.

Applicant _____

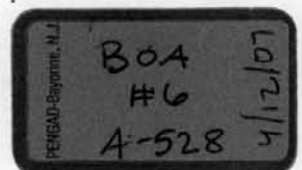
Date

1/18/07

Owner _____

Approved

agrishe



RENTAL HOUSING LICENSE
CITY OF GAITHERSBURGTHIS IS TO CERTIFY THAT West Deer Park Apartments HAS BEEN ISSUED A**FINAL****LICENSE FOR A**

- ☒ Multiple Family Dwelling
☐ Single Family Dwelling, Condominium or Townhouse
☐ Hotel/Motel
☐ Room(s)

ADDRESS: 72-A West Deer Park Road

Pursuant to provisions of Chapter 18AA Laws of Gaithersburg entitled, "Licensing of Rental Housing" license is hereby given to the above named to operate premises described above for a period of two years. This license shall be subject to suspension or revocation upon failure of licensee to maintain the premises in accordance with the Laws of Gaithersburg throughout the period of the license.

DATE ISSUED:

EXPIRES

UNITS 198

TEMPORARY

FEE PAID \$19,800.00

FINAL

1/28/051/31/07LICENSE NO. 00128

BY


City Manager or Designee

RECEIVED BY: [illegible]

BOA

#7

A-528

4/12/07

City of Gaithersburg • 31 South Summit Avenue • Gaithersburg, Maryland 20877 • Telephone: (301) 258-6330 • Fax: (301) 258-6336
 plancode@gaithersburgmd.gov • www.gaithersburgmd.gov

NEIGHBORHOOD SERVICES

Neighborhoods@gaithersburgmd.gov

Telephone: (301) 258-6340

Fax: (301) 258-6174

MULTI-FAMILY RENTAL FACILITY LICENSE APPLICATION

(In accordance with Chapter 13 and 18AA of the City Code)
 All questions must be answered. Please type or print clearly in ink.

I. RENTAL FACILITY INFORMATION

Name of Facility West Deer Park Apartments
 Address 72-A West Deer Park Road
 City License Number 00128 Expiration Date 1/31/07
 Telephone 301-366-4889 Fax 301-565-0059
 Emergency Telephone (evenings and weekends) 202-409-5323

II. RESIDENTIAL DWELLING INFORMATION

- A. 6 Total number of buildings
 B. 198 Total number of residential dwelling units. (Exclude model apartments and units used exclusively for business purposes, such as the resident manager's office.)

☒ Please attach a current rent roll or an address list, including each building number and all apartment numbers in that building, for the entire complex.

III. FORM OF OWNERSHIP. Please choose from the four types listed.

☐ SOLE PROPRIETORSHIP

Property is owned by one individual, or by husband and wife.

A. Individual

Name (first, middle, last) _____
 Address _____
 City _____ State _____ Zip Code _____
 Daytime Telephone _____ Secondary Telephone _____

B. Name of Spouse (if applicable)

Address _____
 City _____ State _____ Zip Code _____
 Daytime Telephone _____ Secondary Telephone _____

☒ PARTNERSHIP

(General Partnership, Joint Venture, Limited Partnership, ect.)

Property is owned by two or more individuals, two or more corporations, or a combination of legal entities recognized by Maryland laws as able to do business as a partnership.

A. Trade name of Partnership, if not doing business under a trade name write NONE.

Name of Partnership WDP-RST, LLC
Contact Person Todd Copeland
Address 168 Business Park Drive, Suite 200
City Virginia Beach State VA Zip Code 23462
Daytime Telephone 757-473-3706 Secondary Telephone 757-589-0535

B. General Partner involved in the partnership of the facility.
Attach additional sheets as needed.

1. General Partner

Name (first, middle, last) RST III, LLC (100% owner of WDP-RST, LLC)
Address 168 Business Park Dr #200 City Virginia Beach
State VA Zip Code 23462 Telephone 757-473-3706

2. General Partner

Name (first, middle, last) Robert O. Copeland (Co-Member of RST III, LLC)
Address 1332 Penguin Circle City Virginia Beach
State VA Zip Code 23451 Telephone 757-425-0360

3. General Partner

Name (first, middle, last) Todd A. Copeland (Co-Member of RST III, LLC)
Address 324 Bay Colony Dr. City Virginia Beach
State VA Zip Code 23451 Telephone 757-496-3977

4. General Partner

Name (first, middle, last) M. Scott Copeland (Co-Member of RST III, LLC)
Address 6200 Poindexter Ln. City Rockville
State MD Zip Code 20852 Telephone 703-328-2648

5. General Partner

Name (first, middle, last) _____
Address _____ City _____
State _____ Zip Code _____ Telephone _____

☐ CORPORATION

Property is owned by a firm doing business as a corporation and legally chartered or registered to conduct business through the State of Maryland.

A. Corporation information

Full legal name of Corporation _____

Business Address _____

City _____ State _____ Zip Code _____

Contact Person _____ Telephone _____

B. Principal Officer information

1. Principal Officer

Name (first, middle, last) _____

Address _____ City _____

State _____ Zip Code _____ Telephone _____

2. Principal Officer

Name (first, middle, last) _____

Address _____ City _____

State _____ Zip Code _____ Telephone _____

3. Principal Officer

Name (first, middle, last) _____

Address _____ City _____

State _____ Zip Code _____ Telephone _____

4. Principal Officer

Name (first, middle, last) _____

Address _____ City _____

State _____ Zip Code _____ Telephone _____

C. Agent information

This section does not apply to Maryland chartered corporations. If the corporation was not chartered by the State of Maryland, list the agent information of its registered agent residing in Maryland. This agent must be able to accept service of process on behalf of the corporation named above. Agents must be registered with the State of Maryland Department of Licensing and Assessments in Baltimore, Maryland.

Name of Agent (first, middle, last) _____

Address _____ City _____

State _____ Zip Code _____ Telephone _____

☐ TRUST

Trust or other form of fiduciary relationship.

Trust information or other fiduciary responsible for the execution of all matters pertaining to the day-to-day operations of the facility.

Name of Trust _____
Court of Jurisdiction _____
Name of Trustee or Fiduciary _____
Address _____
State _____ Zip Code _____ Telephone _____

IV. ASSIGNMENT OF AGENCY

If it desired that City of Gaithersburg deal with, negotiate with, or otherwise transact business with an agent of the owner, list the name, address, and telephone number of such individuals or firm. It shall be assumed that the agency thus created is complete and all-inclusive of the powers and authorities vested in the owner, unless otherwise stipulated. If it is desired that the City of Gaithersburg deal directly with the owner, please write NONE in the space below. If the name of a firm is provided, such firm must be a legal entity as recognized by the State of Maryland.

☐ Individual ☐ Firm

Name of Firm/Agent _____
Address _____
State _____ Zip Code _____ Telephone _____

V. MANAGEMENT

If the day-to-day management of the facility is handled by a firm or individual other than the owner, list name and contact information of such a firm or individual. If the same as in section IV, write SAME. If not applicable write NONE.

☐ Individual ☒ Firm

Name of Firm/Agent Hercules Real Estate Services, Inc.
Address 168 Business Park Drive, Suite 103, Virginia Beach
State VA Zip Code 23462 Telephone 757-473-3706

VI. OFFICE MANAGER

If the rental facility posses a resident or office manager, please list.
If there is no manager, please write NONE in the space.

Name of Manager Michael Shell
Address 8060 13th Street, Silver Spring
State MD Zip Code 20910 Telephone 301-565-0058

VII. LEGAL SERVICE OF PROCESS

If the owner of the rental facility does not reside in the State of Maryland, and the agent assigned, per section IV, does not reside in the State of Maryland, the owner must provide the name and contact information of an agent who does reside in Maryland, and is qualified to accept services on behalf of the owner.

☒ Owner resides in Maryland

☐ Owner does not reside in Maryland

Name of Agent _____
Address _____
State _____ Zip Code _____ Telephone _____

VII. OWNER'S SIGNATURE

I herby affirm under penalty of perjury that the information on this application for a rental facility license is true to the best of my knowledge and belief.

Name of Owner (print) Robert O. Copeland
Signature of Owner Robert O. Copeland Date 11/6/06

Name of Co-owner, if applicable (print) Todd A. Copeland
Signature Todd Date 11/6/06

Name of Co-owner, if applicable (print) M. Scott Copeland
Signature M. Scott Date 11/6/06

Name of Co-owner, if applicable (print) _____
Signature _____ Date _____

08/17/2006
4:02 pm

HERCULES REAL ESTATE SERVICES
West Deer Park Apartments
Rent Roll

Page 1
ID 3.6.6

As Of 6 Jul 2006

Grouping Codes Included: ABCDEFGHIJKLMNOPQRSTUVWXYZ

Unit #	Name	Type	Sq.Ft.	Autobill	Deposit	Moved In	Lease Ends	Status
56-T1	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
56-T2	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
56-T3	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
56-T4	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
58-T3	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
58-T4	Vacant	2BR2B	1,200	1,255.00	0.00			VU
60-T1	Vacant	1BR1	900	1,120.00	0.00			VU
60-T2	Vacant	1BR/1/RE	900	1,215.00	0.00			VU
60-T3	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
60-T4	Vacant	3BR2	1,360	1,455.00	0.00			VU
62-T1	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
62-T2	Vacant	2BR/2BA	1,200	1,255.00	0.00			VU
62-T3	Vacant	2BR2B	1,200	1,255.00	0.00			VU
62-T4	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
64-T1	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
64-T2	Vacant	3BR2	1,360	1,455.00	0.00			VU
64-T3	Vacant	1BR/1/RE	900	1,215.00	0.00			VU
64-T4	Vacant	1BR/1/RE	900	1,215.00	0.00			VU
66-T1	Vacant	1BR1	900	1,120.00	0.00			VU
66-T2	Vacant	1BR1	900	1,120.00	0.00			VU
66-T3	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
66-T4	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
68-T1	Vacant	2BR2B	1,200	1,255.00	0.00			VU
68-T2	Vacant	2BR2B	1,200	1,255.00	0.00			VU
68-T3	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
68-T4	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
70-T1	Vacant	2BR2B	1,200	1,255.00	0.00			VU
70-T2	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
70-T3	Vacant	2BR2B	1,200	1,255.00	0.00			VU
70-T4	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
72-T1	Vacant	1BR1	900	1,120.00	0.00			VU
72-T2	Vacant	1BR1	900	1,120.00	0.00			VU
72-T3	Vacant	3BR2	1,360	1,455.00	0.00			VU
72-T4	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
74-T1	Vacant	1BR/1/RE	900	1,215.00	0.00			VU
74-T2	Vacant	1BR/1/RE	900	1,215.00	0.00			VU
74-T3	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
74-T4	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
76-T1	Vacant	1BR/1/RE	900	1,215.00	0.00			VU
76-T2	Vacant	1BR/1/RE	900	1,215.00	0.00			VU
76-T3	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
76-T4	Vacant	3BR2	1,360	1,455.00	0.00			VU
78-T1	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
78-T2	Vacant	2BR2B	1,200	1,255.00	0.00			VU
78-T3	Vacant	2BR2B	1,200	1,255.00	0.00			VU
78-T4	Vacant	2BR2B	1,200	1,255.00	0.00			VU
80-T1	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
80-T2	Vacant	3BR2	1,360	1,455.00	0.00			VU

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HERCULES REAL ESTATE SERVICES

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West Deer Park Apartments

ID 3.6.6

Rent Roll

As Of 6 Jul 2006

Grouping Codes Included: ABCDEFGHIJKLMNOPQRSTUVWXYZ

Unit #	Name	Type	Sq. Ft.	Autobill	Deposit	Moved In	Lease Ends	Status
80-T3	Vacant	1BR1	900	1,120.00	0.00			VU
80-T4	Vacant	1BR/1/RE	900	1,215.00	0.00			VU
82-T1	Vacant	2BR2B	1,200	1,255.00	0.00			VU
82-T2	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
82-T3	Vacant	2BR2B	1,200	1,255.00	0.00			VU
82-T4	Vacant	2BR2B	1,200	1,255.00	0.00			VU
84-T1	Vacant	2BR2B	1,200	1,255.00	0.00			VU
84-T2	Vacant	2BR2B	1,200	1,255.00	0.00			VU
84-T3	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
84-T4	Vacant	2BR2B	1,200	1,255.00	0.00			VU
86-T1	Vacant	2BR2B	1,200	1,255.00	0.00			VU
86-T2	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
86-T3	Vacant	2BR2B	1,200	1,255.00	0.00			VU
86-T4	Vacant	2BR2B	1,200	1,255.00	0.00			VU
88-T1	Vacant	2BR2B	1,200	1,255.00	0.00			VU
88-T2	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
88-T3	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
88-T4	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
56-101	Vacant	2BR2B	1,200	1,255.00	0.00			VU
56-102	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
56-103	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
56-104	Vacant	2BR2B	1,200	1,255.00	0.00			VU
56-201	Vacant	2BR2B	1,200	1,255.00	0.00			VU
56-202	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
56-203	Vacant	2BR2BDRE	1,300	1,485.00	0.00			VU
56-204	Vacant	2BR2B	1,200	1,255.00	0.00			VU
58-103	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
58-104	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
58-203	Vacant	2BR2BAD	1,200	1,360.00	0.00			VU
58-204	Vacant	2BR2B	1,200	1,255.00	0.00			VU
60-101	Vacant	1BR1	900	1,120.00	0.00			VU
60-102	Vacant	1BR/1/RE	900	1,215.00	0.00			VU
60-103	Vacant	3BR2	1,360	1,455.00	0.00			VU
60-104	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
60-201	Vacant	1BR1	900	1,120.00	0.00			VU
60-202	Vacant	1BRD	900	1,165.00	0.00			VU
60-203	Vacant	3BR2	1,360	1,455.00	0.00			VU
60-204	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
62-101	Vacant	2BR2B	1,200	1,255.00	0.00			VU
62-102	Vacant	2BR2B	1,200	1,255.00	0.00			VU
62-103	Vacant	2BR2B	1,200	1,255.00	0.00			VU
62-104	Vacant	2BR2B	1,200	1,255.00	0.00			VU
62-201	Vacant	2BR2B	1,200	1,255.00	0.00			VU
62-202	Vacant	2BR2BAD	1,200	1,360.00	0.00			VU
62-203	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
62-204	Vacant	2BR2B	1,200	1,255.00	0.00			VU
64-101	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
64-102	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU

08/17/2006

HERCULES REAL ESTATE SERVICES

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West Deer Park Apartments

ID 3.6.6

Rent Roll

As Of 6 Jul 2006

Grouping Codes Included: ABCDEFGHIJKLMNOPQRSTUVWXYZ

Unit #	Name	Type	Sq.Ft.	Autobill	Deposit	Moved In	Lease Ends	Status
64-103	Vacant	1BR1	900	1,120.00	0.00			VU
64-104	Vacant	1BR1	900	1,120.00	0.00			VU
64-201	Vacant	3BR2	1,360	1,455.00	0.00			VU
64-202	Vacant	3BR2	1,360	1,455.00	0.00			VU
64-203	Vacant	1B/D/REH	1,000	1,290.00	0.00			VU
64-204	Vacant	1BR/1/RE	900	1,215.00	0.00			VU
66-101	Vacant	1BR1	900	1,120.00	0.00			VU
66-102	Vacant	1BR1	900	1,120.00	0.00			VU
66-103	Vacant	3BR2	1,360	1,455.00	0.00			VU
66-104	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
66-201	Vacant	1BR1	900	1,120.00	0.00			VU
66-202	Vacant	1B/D/REH	1,000	1,290.00	0.00			VU
66-203	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
66-204	Vacant	3BR2	1,360	1,455.00	0.00			VU
68-101	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
68-102	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
68-103	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
68-104	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
68-201	Vacant	2BR2B	1,200	1,255.00	0.00			VU
68-202	Vacant	2BR2BDRE	1,300	1,485.00	0.00			VU
68-203	Vacant	2BR2B	1,200	1,255.00	0.00			VU
68-204	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
70-101	Vacant	2BR2B	1,200	1,255.00	0.00			VU
70-102	Vacant	2BR2B	1,200	1,255.00	0.00			VU
70-103	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
70-104	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
70-201	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
70-202	Vacant	2BR2BAD	1,200	1,360.00	0.00			VU
70-203	Vacant	2BR2B	1,200	1,255.00	0.00			VU
70-204	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
72-101	Vacant	1BR1	900	1,120.00	0.00			VU
72-102	Vacant	1BR1	900	1,120.00	0.00			VU
72-103	Vacant	3BR2	1,360	1,455.00	0.00			VU
72-104	Vacant	3BR2	1,360	1,455.00	0.00			VU
72-201	Vacant	1BR2	900	1,120.00	0.00			VU
72-202	Vacant	1B/D/REH	1,000	1,290.00	0.00			VU
72-203	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
72-204	Vacant	3BR2	1,360	1,455.00	0.00			VU
74-101	Vacant	1BR1	900	1,120.00	0.00			VU
74-102	Vacant	1BR1	900	1,120.00	0.00			VU
74-103	Vacant	3BR2	1,360	1,455.00	0.00			VU
74-104	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
74-201	Vacant	1BR/1/RE	900	1,215.00	0.00			VU
74-202	Vacant	1BRD	900	1,165.00	0.00			VU
74-203	Vacant	3BR2	1,360	1,455.00	0.00			VU
74-204	Vacant	3BR2	1,360	1,455.00	0.00			VU
76-101	Vacant	1BR1	900	1,120.00	0.00			VU
76-102	Vacant	1BR1	900	1,120.00	0.00			VU

08/17/2006
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HERCULES REAL ESTATE SERVICES
West Deer Park Apartments
Rent Roll

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ID 3.6.6

As Of 6 Jul 2006

Grouping Codes Included: ABCDEFGHIJKLOPQRSTUVWXYZ

Unit #	Name	Type	Sq.Ft.	Autobill	Deposit	Moved In	Lease Ends	Status
76-103	Vacant	3BR2	1,360	1,455.00	0.00			VU
76-104	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
76-201	Vacant	1BR1	900	1,120.00	0.00			VU
76-202	Vacant	1B/D/REH	1,000	1,290.00	0.00			VU
76-203	Vacant	3BR2	1,360	1,455.00	0.00			VU
76-204	Vacant	3BR2	1,360	1,455.00	0.00			VU
78-101	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
78-102	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
78-103	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
78-104	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
78-201	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
78-202	Vacant	2BR2BAD	1,200	1,360.00	0.00			VU
78-203	Vacant	2BR2B	1,200	1,255.00	0.00			VU
78-204	Vacant	2BR2B	1,200	1,255.00	0.00			VU
80-101	Vacant	3BR2	1,360	1,455.00	0.00			VU
80-102	Vacant	3BR2	1,360	1,455.00	0.00			VU
80-103	Vacant	2BR/1/RE	1,200	1,330.00	0.00			VU
80-104	Vacant	2BR1B1	1,200	1,185.00	0.00			VU
80-201	Vacant	3BR2	1,360	1,455.00	0.00			VU
80-202	Vacant	3BR/2/RE	1,360	1,580.00	0.00			VU
80-203	Vacant	2BR1BDRE	1,300	1,430.00	0.00			VU
80-204	Vacant	2BR/1/RE	1,200	1,330.00	0.00			VU
82-101	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
82-102	Vacant	2BR2B	1,200	1,255.00	0.00			VU
82-103	Vacant	2BR2B	1,200	1,255.00	0.00			VU
82-104	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
82-201	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
82-202	Vacant	2BR2BAD	1,200	1,360.00	0.00			VU
82-203	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
82-204	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
84-101	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
84-102	Vacant	2BR2B	1,200	1,255.00	0.00			VU
84-103	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
84-104	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
84-201	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
84-202	Vacant	2BR2BAD	1,200	1,360.00	0.00			VU
84-203	Vacant	2BR2B	1,200	1,255.00	0.00			VU
84-204	Vacant	2BR2B	1,200	1,255.00	0.00			VU
86-101	Vacant	2BR2B	1,200	1,255.00	0.00			VU
86-102	Vacant	2BR2B	1,200	1,255.00	0.00			VU
86-103	Vacant	2BR2B	1,200	1,255.00	0.00			VU
86-104	Vacant	2BR2B	1,200	1,255.00	0.00			VU
86-201	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
86-202	Vacant	2BR2BAD	1,200	1,360.00	0.00			VU
86-203	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
86-204	Vacant	2BR2B	1,200	1,255.00	0.00			VU
88-101	Vacant	2BR2B	1,200	1,255.00	0.00			VU
88-102	Vacant	2BR2B	1,200	1,255.00	0.00			VU

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HERCULES REAL ESTATE SERVICES
West Deer Park Apartments
Rent Roll

Page 5
ID 3.6.6

As Of 6 Jul 2006

Grouping Codes Included: ABCDEFGHIJKLOPQRSTUVWXYZ

Unit #	Name	Type	Sq.Ft.	Autobill	Deposit	Moved In	Lease Ends	Status
88-103	Vacant	2BR2B	1,200	1,255.00	0.00			VU
88-104	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
88-201	Vacant	2BR2B	1,200	1,255.00	0.00			VU
88-202	Vacant	2BR2BAD	1,200	1,360.00	0.00			VU
88-203	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU
88-204	Vacant	2BR/2/RE	1,200	1,385.00	0.00			VU

Code	Status	# Units	Rent Schedule	Amount
O	Occupied, No Notice	0	Units Occupied--Actual Rents	0.00
NU	Occupied, Notice Unrented	0	Units Vacant--Vacant Potential	264,265.00
NR	Occupied, Notice Rented	0		
VU	Vacant, Unrented	198	100% (Gross) Potential Value	264,265.00
VR	Vacant, Rented	0		
SU	Charging A Skip, Unrented	0	Total Deposits	0.00
SR	Charging A Skip, Rented	0	Total Rentable Square Feet	233,620
Total Units		198		

GAITHERSBURG

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CODE

PENGAD-Bayonne, N.J.
BoA
#11
A-528 4/12/67

Chapter 18AA RENTAL HOUSING LICENSING*

***Editor's note:** Ordinance No. O-12-90, adopted June 4, 1990, repealed Ch. 18AA regarding rental housing licensing, and reenacted it with amendments as set out herein.

- § 18AA-1. Purpose and scope of chapter.
- § 18AA-2. Definitions.
- § 18AA-3. License--Required.
- § 18AA-4. Same--Application; fees.
- § 18AA-5. Same--Issuance.
- § 18AA-6. Same--Renewal.
- § 18AA-7. Inspections.
- § 18AA-8. Violation after license issued.
- § 18AA-9. Violations generally; injunctive relief.
- § 18AA-10. Transferability of license.
- § 18AA-11. Appeals.
- § 18AA-12. Consent to inspection.

Sec. 18AA-1. Purpose and scope of chapter.

The purpose of this chapter is to assure compliance with all laws, ordinances and regulations applicable to rental housing units in the city. It is further the purpose of this chapter to promote and ensure safe, healthy and habitable housing conditions in rental units in the city, to prevent deterioration of rental properties and to encourage responsible management and use of rental property by inspection and licensing of these units.
(Ord. No. O-12-90, 6-4-90)

Sec. 18AA-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Boarding house. A dwelling in which, for compensation, lodging and meals are furnished to at least three (3) but not more than five (5) guests. A boarding house shall not be deemed a home occupation. Any boarding house lawfully established on October 1, 1985, under regulations previously in effect as to the permissible number of guests, may continue to operate under the requirements in force prior to October 1, 1985, and shall not be considered a nonconforming use.

City manager. The city manager or his designee.

Dormitory. A building or portion thereof used for sleeping purposes in connection with a school or college or other institution.

Dwelling. A building or portion thereof arranged or designed to provide living facilities for one or more families, excepting trailers and mobile homes.

Dwelling unit. A group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating purposes.

Dwelling, multiple-family. A residence designed for or occupied by three (3) or more families with separate housekeeping and cooking facilities for each.

Dwelling, single-family. A detached residence designed for or occupied by one family only, excluding trailers and mobile homes.

Dwelling, two-family. A residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each.

Family. One or more persons occupying a single housekeeping unit and using common cooking facilities; provided, that unless all members are related by blood or marriage, no such family shall contain over five (5) persons.

Hotel. Any building containing ten (10) or more guest rooms where, for compensation, lodging, meals or both are provided for ten (10) or more guests, excluding a fraternity or sorority house, school or college dormitory, tourist home, motel or hotel-apartment as defined herein.

Mobile home. A moveable or portable dwelling built on a chassis connected to utilities and designed without permanent foundation for year-round living.

Owner. Any person, firm, partnership, association, company or corporation having a legal or equitable interest in the rental facility, including, but not limited to, a mortgagee and an assignee of rents. It shall also mean any person who, alone or jointly or severally with others, shall have the charge, care or control of any structure as executor, administrator, trustee or guardian of the estate of the owner. Any person, firm, company, association or corporation whose name appears on the property tax bills shall be deemed to be owner of the rental property.

Rental housing unit. Any space in any building which for a consideration is made available to a person or persons for dwelling or lodging purposes and, in any building containing three (3) or more rental housing units, spaces within the building used for access, storage, trash disposal, cleaning, utilities or recreational purposes. Rental housing units may be contained within single-family, two-family and multiple-family dwellings, townhouses, urban cottages, mobile homes, rooming house, boarding house, dormitory, tourist home, hotel, motel and apartment-hotel as defined herein, provided they are otherwise allowed by Chapter 24 of this Code.

Roominghouse. A dwelling in which lodging is furnished for compensation to at least three (3) but not more than five (5) guests. Any roominghouse lawfully established on October 1, 1985, under regulations previously in effect as to the permissible number of guests, may continue to operate under the requirements in force prior to October 1, 1985, and shall not be considered a nonconforming use.

Townhouse. One of a group of three (3) or more dwelling units in the same building, each of which units is separated from any adjacent unit by a continuous vertical party wall without openings extending from the lowest floor level of the unit to the highest point of the roof along the party wall division line, and each of which dwelling units has its own entrance directly from the outside.

Urban cottage. A subordinate dwelling unit, either freestanding or part of another structure on a lot, that because of its size, facilities or usage is secondary to the primary dwelling unit located on the lot.

(Ord. No. O-12-90, 6-4-90; Ord. No. O-14-93, 11-1-93)

Sec. 18AA-3. License--Required.

All owners of any occupied rental housing units must have a valid, unrevoked license issued by the city manager pursuant to this chapter.

(Ord. No. O-12-90, 6-4-90)

Sec. 18AA-4. Same--Application; fees.

The owner of any rental housing unit within the city which is occupied shall deliver to the city manager on a form to be supplied by the city manager, an application for the license hereinabove required, signed by the owner or his authorized agent. The application shall be filed before any such unit is occupied or permitted to be occupied. Such application shall be accompanied by a fee which shall be established by resolution of the city council.

(Ord. No. O-12-90, 6-4-90)

Sec. 18AA-5. Same--Issuance.

(a) Upon receipt of a properly completed application and the required fee, the city manager shall issue a temporary license to expire six (6) months after the date of issuance. As soon as practicable thereafter, the city manager shall cause an inspection to be made of the premises described in the application. If the inspection discloses no violation of any applicable law or other regulation, the city manager shall issue a final license. The license shall be posted in a conspicuous place on the premises or maintained in the custody of the resident manager. If the inspection discloses a violation, the city manager shall notify the owner in writing of the nature of the violation and the time within which such correction shall be accomplished. The final license shall be issued after reinspection evidencing a corrected violation, and the final license shall expire two (2) years from the date of issuance of the temporary license. In the event violations have not been corrected upon reinspection, or no authorized person was present to accompany the city inspector upon reinspection, the temporary license shall be revoked unless an extension thereof has been granted by the city manager for good cause shown. Upon revocation of any temporary or final license, the unlicensed units may be ordered vacated by the city manager, and/or a reinspection may be ordered upon the payment of a reinspection fee in an amount prescribed by resolution of the city council.

(b) If the application is for premises less than two (2) years old at the time of application, no temporary license shall be issued, but a final license shall be issued promptly after the satisfactory completion of all inspections required by other applicable laws, ordinances or regulations and rental application has been filed with the city manager.

(c) All multifamily apartment houses shall be issued a final license upon receipt of a completed application form and fee which shall be established by resolution of the city council. (Ord. No. O-12-90, 6-4-90)

Sec. 18AA-6. Same--Renewal.

At least ninety (90) days prior to the expiration of a final license, the holder thereof shall apply for renewal thereof. The city manager shall cause an inspection of the premises to be made after which the procedures shall be as set forth in subsection (a) of section 18AA-5.

When a rental property becomes owner occupied, the previous owner must inform the city manager to remove the property from the listed rental stock on file with the city.

(Ord. No. O-12-90, 6-4-90)

Sec. 18AA-7. Inspections.

An inspection is required for all rental housing units. When an inspection is required of a building containing more than two (2) dwelling units, the city manager may designate the number of units to be inspected and how often.

(Ord. No. O-12-90, 6-4-90)

Sec. 18AA-8. Violation after license issued.

If, after a final license has been issued, the city manager shall discover, in a rental housing unit, a violation of any applicable law, ordinance or regulation, he shall give the owner the notice required by subsection (a) of section 18AA-5. If the correction is not completed within the time stated in the notice or any extension thereof by the city manager, the city manager may revoke the license for the premises in which such rental housing unit is located. Should the temporary or final license be revoked, the city manager shall cause an inspection of the premise to be made, the procedure for which shall be as set forth in subsection (a) of section 18AA-5.

(Ord. No. O-12-90, 6-4-90)

Sec. 18AA-9. Violations generally; injunctive relief.

Violations of this chapter are declared to be municipal infractions and enforceable pursuant to the provisions of section 1-9. The maximum penalty for each initial and repeat violation shall be established by the city council.

In addition thereto, the city may institute injunctive, mandamus or any other appropriate action or proceedings at law or equity for enforcement of this chapter or to correct violation of this chapter, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions or mandamus or other appropriate form of remedy or relief. (Ord. No. O-12-90, 6-4-90)

Sec. 18AA-10. Transferability of license.

When property licensed hereunder is transferred to another owner, the license may be transferred to the new owner upon written application therefor to the city manager and payment of such fee as shall be prescribed by the city council by resolution.

(Ord. No. O-12-90, 6-4-90)

Sec. 18AA-11. Appeals.

Any action of the city manager under this chapter shall be subject to appeal to the city board of appeals as provided in sections 24-187 through 24-193.

(Ord. No. O-12-90, 6-4-90)

Sec. 18AA-12. Consent to inspection.

The submission of an application for a license hereunder shall constitute continuing assent by the owner of the premises described in the application to inspection of the premises by the city manager during reasonable hours.

(Ord. No. O-12-90, 6-4-90)

GAITHERSBURG

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B—*Interior lot*, defined as a lot other than a corner lot with only one frontage on a street other than an alley.

C—*Through lot*, defined as a lot other than a corner lot with frontage on more than one street other than an alley. Through lots with frontage on two (2) streets may be referred to as double frontage lots.

D—*Reversed frontage lot*, defined as a lot in which the frontage is at right angles or approximately right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot (see A-I and B-D in the diagram).

Medical care building. An establishment where patients are accepted for special study and treatment by a group of physicians practicing medicine together.

Medical practitioner. A licensed physician, surgeon, dentist, osteopath, chiropractor or similar practitioner.

Mining, quarrying or earth removing. The excavation of any natural mineral deposit or soil for commercial sale.

Mobile home. A movable or portable dwelling built on a chassis connected to utilities and designed without a permanent foundation for year-round living.

Mobile home park. Any plot of ground of at least eight (8) acres upon which a minimum of ten (10) mobile home spaces are located.

Monopole. A single, freestanding pole-type structure, tapering from base to top and supporting one or more antenna. For purposes of this chapter, a monopole is not a tower.

Motel. Any group of guest rooms, combined or separated, used for the purpose of housing short-term transient guests, each unit of which is provided with its own toilet and washroom facilities, but do not include kitchen or kitchenette facilities or equipment in the guest units.

Nonconforming use. A use of a building or of land lawfully existing at the time this chapter or the previous zoning ordinance became effective and which does not conform with the use regulations of the zone in which it is located.

Opiate addiction treatment facility. A facility operated privately and not by a governmental unit that is registered with the Drug Enforcement Administration, which administers methadone or levo-alpha-acetyl-methado (LAAM) as part of a maintenance or treatment program for opiate dependent persons. An opiate addiction treatment facility is not a clinic or medical or professional office as those uses are applied in this zoning ordinance.

Outdoor advertising business. Provision of outdoor displays or display space on a lease or rental basis only.

Outlot. A parcel of land shown on a record plat but inadequate as a buildable lot due to insufficient size or frontage. Adjoining outlots in adjacent subdivisions may be used as a lot if combined they meet the minimum requirements for area and frontage imposed by this chapter in the zone in which they are situated.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are not of record on March 22, 1965, or at the time of passage of an amendment of this chapter, and if all or part of the lot do not meet the requirements for lot width and area as established by this chapter, the land involved shall be considered to be an undivided parcel for the purpose of this chapter, and no portion of such parcel shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

(Ord. No. O-2-65, art. 1, § 4)

Sec. 24-16. Exceptions for certain dimensional nonconformities.

Notwithstanding any other provision of this chapter, where land within the city is occupied by one or more structures in compliance in all respects with this chapter, and part of such land is acquired by any governmental agency, and such acquisition causes the property in question to be in violation of one or more provisions of this chapter including, but not limited to, insufficient net lot area, insufficient off-street parking, excess percentage of coverage of the lot by the structure, insufficient minimum yards, insufficient green space or excessive height of the structure or structures shall not be treated as in violation of this chapter and may be used, structurally altered, reconstructed, repaired or enlarged to the same extent that such use, structural alteration, reconstruction, repair or enlargement would have been permissible under the provisions of this chapter had the acquisition by such public agency not taken place. (Ord. No. O-3-71)

Sec. 24-17. Nonconforming uses of land.

Where, on March 22, 1965, or on the date of adoption of an amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (a) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on March 22, 1965, or on the effective date of an amendment of this chapter.
- (b) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on March 22, 1965, or on the effective date of an amendment of this chapter.
- (c) If any such nonconforming use of land ceases for any reason for a period of more than ninety days, any subsequent use of such land shall conform to the regulations specified by this chapter for the zone in which such land is located.

(Ord. No. O-2-65, art. 1, § 4)

Sec. 24-18. Nonconforming structures.

Where a lawful structure exists on March 22, 1965, or on the effective date of an amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions

on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) No such structure may be enlarged or altered in a way which increases its nonconformity.
 - (b) Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction as determined by the building inspector, it shall not be reconstructed except in conformity with the provisions of this chapter.
 - (c) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.
- (Ord. No. O-2-65, art. 1, § 4)

Sec. 24-19. Nonconforming use of structures.

If a lawful use of a structure or of a structure and premises in combination, exists on March 22, 1965, or on the effective date of an amendment of this chapter, that would not be allowed in the zone under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) No existing structure devoted to a use not permitted by this chapter in the zone in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located.
- (b) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for use on March 22, 1965, or at the time of an amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
- (c) If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use only upon a finding by the city council, after public hearing, that the change is required (i) to preserve a historic structure, or (ii) as part of the renewal, revitalization or restoration of a specific geographic area designated by the city council, or (iii) to prevent a confiscatory taking of the property. In permitting such change, the city council may require appropriate conditions and safeguards to protect and enhance the public welfare.
- (d) Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the nonconforming use may not thereafter be resumed.

- (e) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for eighteen months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the zone in which it is located.
- (f) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Ord. No. O-2-65, art. 1, § 4; Ord. No. O-18-82, § 1)

Sec. 24-20. Repairs and maintenance.

On any structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent of the current replacement value of the structure; provided, that the cubic content of the structure shall not be increased.

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Ord. No. O-2-65, art. 1, § 4)

Sec. 24-21. Uses under exception provisions not nonconforming uses.

Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such zone.

(Ord. No. O-2-65, art. 1, § 4)

Sec. 24-21.1. Enlargement, relocation, replacement, repair or alteration of nonconforming structures.

Anything to the contrary in this chapter notwithstanding, the planning commission shall be authorized to permit any nonconforming structure, or any structure occupied by a nonconforming use, to be enlarged, relocated, replaced, repaired or structurally altered in any zone upon a finding by the commission that such work will not adversely affect the use or development of any other property, upon such conditions as the commission shall find necessary to avoid such adverse effect.

(Ord. No. O-07-78)

DIVISION 5. R-20 ZONE, MEDIUM DENSITY RESIDENTIAL

Sec. 24-55. Purpose of zone.

The R-20 Zone is intended to stabilize and protect medium density areas by reducing hazards to the living environment and to provide for a varied, denser urban residential pattern suitable to the needs of the population by encouraging a range of dwelling types.
(Ord. No. O-2-65, Art. 3, § 1)

Sec. 24-56. Uses permitted by right.

The following uses are permitted by right in the R-20 Zone:

- (1) All uses permitted in the R-T Zone.
 - (2) Two family dwellings, multiple-family and multiple family condominium dwellings.
 - (3) Boardinghouses and rooming houses.
 - (4) Fraternity and sorority houses.
 - (5) Accessory uses and structures, including but not limited to:
 - (a) Accessory uses and structures permitted in the R-90 Zone.
 - (b) Business office for the administration of multiple-family dwellings containing more than twenty-four (24) dwelling units.
 - (c) Swimming pools for the exclusive use of the residents of the dwelling or dwellings located on the same parcel or lot.
 - (d) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.
 - (6) Child or elderly day care facilities in single-family detached dwelling units or duplexes accommodating not more than eight (8) individuals.
 - (7) Towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provisions of section 24-167A of this Code.
 - (8) Bed and breakfast subject to the requirements contained in section 24-167B.
 - (9) Public buildings and uses.
- (Ord. No. O-2-65, Art. 3, § 1; Ord. No. O-1-73, § 2; Ord. No. O-1-76, § 1; Ord. No. O-1-79; Ord. No. O-5-80, § 2; Ord. No. O-20-87, 9-8-87; Ord. No. O-3-88, 3-24-88; Ord. No. O-5-93, 4-12-93; Ord. No. O-17-93, 11-15-93; Ord. No. O-1-96, 2-5-96; Ord. No. O-8-98, § 2, 8-3-98; Ord. No. O-13-02, 11-4-02)

(2) *Existing pawnshops regulation thereof.* Any pawnshops lawfully operating within the city as of the effective date of this section shall be subject to the following additional requirements and restrictions:

- (a) All existing pawnshops located within the city shall, by not later than September 1, 2001, be located only on property zoned I-3 and shall conform to the requirements of section 24-144 of this Code.
 - (b) Any pawnshop not conforming to the requirements of section 24-167C(2)(a) above shall cease operations and shall not be a lawful nonconforming use.
 - (c) Pawnshops in existence on land zoned other than in the I-3 Zone after the expiration of the period provided in section 24-167C(2)(a) above shall be subject to the enforcement procedures and penalties provided in section 24-184 of this Code.
- (Ord. No. O-4-98, 4-6-98)

ARTICLE V. SITE DEVELOPMENT PLANS

Sec. 24-168. When required.

No building or structure shall be hereafter erected, moved, added to or structurally altered under circumstances which require the issuance of a building permit under this chapter, nor shall any use be established, altered or enlarged under circumstances which require the issuance of a use and occupancy permit under this chapter, upon any land, until a site development plan for the land upon which such building, structure or use is to be erected, moved, added to, altered, established or enlarged has been approved by the city planning commission. This requirement shall not apply to the use of any single-family dwelling for residential purposes.

Notwithstanding the foregoing, no site development plan shall be required to be submitted or approved where the city manager or his designee, upon reviewing an application for use and occupancy permit, is satisfied that the proposed use is a permitted use in the zone and is substantially similar to the use to which the premises were put by the last prior occupant thereof, and the property on which the use is proposed to be located has been the subject of a site development plan approved by the planning commission. A proposed use shall not be deemed substantially similar to a prior use where this chapter imposes more stringent requirements for the proposed new use as to off-street parking, yards, height limits or minimum lot size. Notwithstanding the foregoing, no site development plan shall be required to be submitted or approved where the city manager or his designee, upon reviewing an application for a building permit for changes in an existing building, is satisfied that the proposed changes in the building will not increase the exterior dimensions of the building or substantially increase the usable space within the building.

(Res. No. R-19-66; Ord. No. O-3-73; Ord. No. O-6-79, § 2; Ord. No. O-1-88, 1-4-88)

ARTICLE XI. OFF-STREET PARKING AND LOADING

Sec. 24-218. General requirements.

(a) There shall be provided, at the time of erection, enlargement or structural modification of any building or structure, off-street parking spaces, either within or without a structure with adequate provision for ingress and egress, in accordance with the requirements contained in this article. Except as otherwise provided, each parking space shall consist of a standard parking stall to be a minimum of nine (9) feet wide. Retail centers, offices and other uses, where a mix of short-term and long-term parking occurs, shall use the nine-foot wide standard stall. Provided, however, different stall widths may be required or permitted based upon the proposed use as follows:

(1) *High turnover stall* - for multi- or single-use buildings devoted primarily or exclusively to service or convenience uses including, but not limited to, Class B restaurants, banks and convenience stores must be ten (10) feet wide.

(2) *Low turnover stall* - for residential, employee and commuter parking areas where long-term parking generally occurs may be a minimum of eight and one-half (8 1/2) feet wide.

More than one type of stall may be used or required, based upon the use of the property, with the authorization of the city planning commission or its designee pursuant to section 24-218(f).

(b) For any building or part thereof used for commercial, industrial, hospital or institutional purposes, adequate off-street parking space for loading and unloading shall be provided in such amount and at such locations as required by the planning commission at the time of site development plan approval, considering the size and proposed use of the building. Such space shall be in addition to other requirements contained in section 24-219.

(c) No required parking area or loading space shall be used or permitted to be used for the sale, repair, dismantling or servicing of any vehicle, equipment, materials or supplies.

(d) Parking spaces as required in this article shall be on the same lot with the main building or structure, or for buildings other than dwellings, located not more than three hundred (300) feet therefrom. Any parking space shown on a site development plan heretofore or hereafter approved by the planning commission which abuts the side or rear lot line, or faces the front of a lot in a residential zone, shall be screened from such lot by an earth berm, planting, a fence, a solid wall or a combination of two (2) or more of the foregoing as specified by the planning commission in approval of the site development plan.

(e) All off-street parking facilities, except those for single-family detached use, shall consist of modules which comprise a drive aisle and one or two (2) rows of parking spaces as shown in Figure A below and consistent with the following standards:

(1) *One-way module* - shall be composed of a linear area at least fifty-five (55) feet wide to accommodate two (2) rows of angled parking and a single, one-way aisle.

Two-way module - shall be composed of a linear area at least sixty (60) feet wide to accommodate two (2) rows of angled or perpendicular parking and two-way aisles.

Single-loaded module - where only one (1) row of parking is provided, the module width in each of the above cases may be reduced by seventeen (17) feet.

(2) Each edge of a perpendicular or angled parking stall shall be defined by double parallel lines spaced to provide a clear area of twelve (12) inches between lines. Each

stall shall be seventeen (17) feet in length.

(3) Angled stalls are defined as those stalls where the angle between the center line of the parking stall and the center line of the driveway serving it does not exceed seventy-five (75) degrees. Parallel stalls are defined as those stalls that are parallel to the drive aisle serving the stall. Perpendicular stalls are defined as those stalls where the angle between the center line of the parking stall and the center line of the driveway serving it is ninety (90) degrees. All entry and exit portions of driveways connecting to public streets shall be consistent with section 19-15(e) of this Code.

(f) If any parking area consisting of spaces ten (10) feet wide or wider shall hereafter be redesigned to provide parking spaces less than ten (10) feet wide pursuant to this section, the new design shall be first approved by the planning commission.

(g) All required parking spaces, access and circulation drives shall have a paved surface in accordance with the requirements of this article. All off-street parking, loading and storage areas must be striped in a visible color. The planning commission, in addition, may require in its approval of the site development plans, directional arrows and traffic signs on site as necessary for site traffic control.

(h) All driveways constructed after the effective date of this ordinance, in connection with single-family residential dwellings, with the exception of those dwellings zoned MXD, shall meet the following requirements:

(1) The minimum length of a driveway shall be twenty (20) feet. The minimum length of a driveway serving a garage or carport shall be twenty-four (24) feet, measured from the garage or carport to the property line or the back of the sidewalk, whichever is closer to the garage.

(2) The maximum slope of any residential driveway shall be ten (10) percent where the driveway serves a garage or carport and six (6) percent where the driveway is used as the required off-street parking. A waiver of this requirement can be granted by the director of public works and engineering.

(3) Paving requirements for residential driveways shall comply with section 24-220(b).

(i) No off-street parking lot, area or facility shall be reduced in area or encroached upon by buildings, structures or vehicular storage or any other use where such reduction or encroachment will reduce the area below that required by this article.

(j) Notwithstanding any other provision to the contrary contained in this chapter, the requirements of this article may be waived in whole or part by the city council for any proposed original or new use or reuse of a building, structure, premises or lot located within the Olde Towne District as defined in section 24-161 or for any lot upon which there exists a structure designated by the historic district commission as a historic resource. The waiver applicable herein may be granted upon the application of the owner or occupant and only upon a finding by the city council, after public hearing, that such waiver would not be detrimental to the public health, safety or general welfare and that such parking cannot reasonably be provided on-site. The city council may attach such conditions or safeguards to protect and enhance the public welfare as it may deem necessary. Any waiver granted hereunder shall expire with any subsequent change in use or reuse of the building, structure, premises or lot. No waiver granted hereunder shall affect the authority of the city council to create a parking lot district and apply the requirements and standards relating to such district, including, but not limited to, the assessment or taking of properties to which a waiver applies.

(Ord. No. O-13-80; Ord. No. O-18-82, § 5; Ord. No. O-16-86, § 1, 12-8-86; Ord. No. O-1-90, 1-2-90; Ord. No. O-6-93, 4-19-93)



Gaithersburg
A CHARACTER COUNTS! CITY

November 8, 2006

Mr. Scott Copeland
RST Development, LLC
6001 Montrose Road
Suite 710
Rockville, MD 20852

Dear Mr. Copeland:

As discussed during our October 23, 2006 meeting and reiterated during our telephone conversations on November 3, 2006, the City Attorney's office has determined that you must obtain approval for site plan amendment from the Planning Commission prior to being permitted to reoccupy the existing dwellings at West Deer Park Apartments.

In response to your inquiry concerning submission requirements, Greg Ossont, the Director of Planning and Code Administration, has provided you with the attached clarification on submission requirements. As we discussed, if you disagree with Mr. Ossont's position on the submission requirements, please outline your objection in writing and I will discuss the issue with the City Attorney and provide you with a written response as expeditiously as possible.

If you should have any questions or wish to discuss this matter, please feel free to contact me at 301-258-6310.

Sincerely,

Frederick J. Felton
Assistant City Manager

fjf/ms
Enclosure

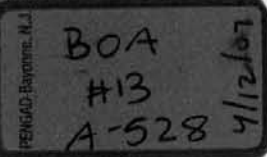
cc: David B. Humpton, City Manager
Cathy G. Borten, City Attorney
Greg Ossont, Director of Planning and Code Administration

City of Gaithersburg • 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098
301-258-6300 • FAX 301-948-6149 • TTY 301-258-6430 • cityhall@gaithersburgmd.gov • www.gaithersburgmd.gov

MAYOR
Sidney A. Katz

COUNCIL MEMBERS
Stanley J. Alsler
Geraldine E. Edens
Henry F. Marmola, Jr.
John B. Schlichting
Michael A. Sesma

CITY MANAGER
David B. Humpton



BOARD OF APPEALS

ADMINISTRATIVE REVIEW
APPLICATION

In accordance with Chapter 24, Article VII, Section 24-187 thru 190 of the City Code

Application No.	<u>A-526</u>
Date Filed	<u>11/22/06</u>
BOA Hearing	<u>Jan. 11, 2007</u>
Decision	_____
Date of Decision	_____
Opinion Rendered	_____

SUBJECT PROPERTY West Deer Park ApartmentsADDRESS 70 West Deer Park Road ZONING CLASSIFICATION R-20LOT Parcel A BLOCK _____ SUBDIVISION KRA-GARR GardensAPPLICANT RST Development, LLC TELEPHONE 301/816-4242ADDRESS 6001 Montrose Road, Suite 710, Rockville, MD 20852*If there are co-applicants, provide additional sheet(s) with names, addresses and phone numbers.*

NATURE OF APPLICATION

Briefly describe application request referencing appropriate section of City Code.

Appeal of Determination by City Attorney and Planning and Code Administration requiring approval of Site Plan Amendment for reoccupation of existing dwellings pursuant to Sections 24-56, 24-17, 24-18, 24-19, 24-20 and 24-168 (see attached Statement for further information)

List case numbers of all applications filed within the past three (3) years pertaining to any portion of subject property.

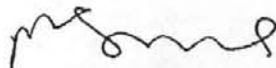
SP-05-0010

SUBMISSION REQUIREMENTS

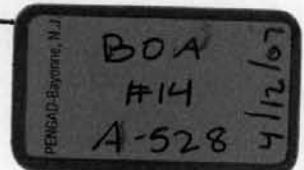
1. A written statement explaining the grievance to the Board of Appeals and outlining the history of both applicant's and City's actions in regards to the subject property.
2. Supporting documentation, see list on reverse side.
3. Fees, see separate schedule.
4. Transcript costs (to be charged after completion).

I have read and complied with the submission requirements and affirm that all statements contained herein are true and correct.

Signature _____



Date _____

11/22/06*If there are co-applicants, attach additional signature page(s) with signatures and printed names and addresses.*

SUBMISSION CHECKLIST

In accordance with Chapter 24, Article VII, Section 24-188(3) of the City Code

1. ☐ **Written statement explaining grievance** and outlining histories of both petitioner's and City's action in regards to subject parcel. This statement should demonstrate why, in the petitioner's opinion, the Planning Commission and/or Staff decision in question was in error.
2. ☐ **The action, document, and all records** upon which the appeal is filed or based. (Files of a Planning Commission action shall be submitted by Planning Commission Staff following the filing of an Administrative Review.)
3. ☐ **Copy of official zoning vicinity map** with a one-thousand-foot radius (circle) surrounding the subject property and other information to indicate the general conditions of use and existing improvements on adjoining and confronting properties. (Zoning maps available from the Planning and Code Administration.)
4. ☐ **List of names and addresses of adjoining and confronting property owners or occupants** within two hundred (200) feet of the subject property; if such property is a condominium, cooperative or is owned by a homeowners' association the petitioner must provide their correct address and that of their resident agent. (Information can be researched in the Planning and Code Administration.)
5. ☐ **A list of names and addresses of persons whom you wish to be notified of the public hearing**, other than adjacent property owners.
6. ☐ **Required fee.** (Check where applicable. See fee schedule.)
 - ☐ Planning Commission Decision
 - ☐ Staff Decision
7. ☐ **Cost of transcripts.** (Transcript costs are billed in accordance with fee schedule.)

CRITERIA

In accordance with Chapter 24, Article VII, Section 24-189(a) of the City Code

The Board of Appeals may grant a petition for Administrative Review when findings from the evidence of record that final order, requirement, decision or determination which is the subject of the appeal was clearly erroneous or not in accordance with the law.

Please note: Section 24-188(f) of the City Code stipulates that appeals alleging error by the Planning Commission shall be by oral argument or written statement based **solely** on evidence submitted and received in the Planning Commission proceedings.

BEFORE THE BOARD OF APPEALS
FOR THE CITY OF GAITHERSBURG, MARYLAND
APPEAL CHARGING ERROR IN
ADMINISTRATIVE ACTION OR DETERMINATION

COMES NOW, RST Development, LLC, by its attorneys, and submits the following appeal:

STATEMENT OF THE CASE

RST Development, LLC ("RST"), is the owner of certain land and improvements located at 70 West Deer Park Road, Gaithersburg, Maryland and known as West Deer Park Apartments (the "Property"). The Property is classified in the R-20 zone (medium density residential) and is developed with multi-family residential buildings that contain 198 dwelling units. These units have been operated as rental apartments since their construction in 1973.

RST purchased the Property in 2005 and obtained Site Development Approval from the Planning Commission for the redevelopment of the Property with 130 townhouse units on January 4, 2006 (the "Approval"). Nevertheless, significant declines in the residential housing market and increases in the costs of construction have impacted such redevelopment. As an alternative to redevelopment, RST has proposed to renovate the existing structures on the Property to allow for the continued operation of the existing buildings as rental apartments in accordance with an existing use and occupancy permit and an existing rental license. The proposed renovation work includes the installation of new cabinets, carpeting and other improvements and does not otherwise involve structural modifications, changes in the overall number of dwelling units, or increases in the exterior dimensions of, or usable space within, the existing buildings.

RST reviewed the proposed renovations with City Staff, who initially indicated that new approvals from the Planning Commission would not be required. As such, RST arranged for contractors to commence this work. Subsequently, City Staff determined that the work would require new approvals. As set forth in a letter from the Assistant City Manager to RST dated November 8, 2006, the City Attorney for the City of Gaithersburg, acting on behalf of the Planning and Code Administration, determined that RST would be required to file a Site Development Plan Amendment and obtain approval from the Planning Commission prior to resuming the occupation of the existing buildings on the Property for rental purposes. In further discussions, City Staff have revealed that this decision is based on the belief that the continued use of the existing development on the Property for rental apartments would now constitute a non-conforming use.

RST respectfully disagrees with this determination by City Staff and therefore is appealing the decision of the City Attorney and the Planning and Code Administration set forth in the letter dated November 8, 2006. With this appeal, RST seeks to preserve its rights to continue using the Property for rental apartment purposes.

BoA
#15
A-528

DISCUSSION AND ARGUMENTS

Based on various provisions of Chapter 24 of the Code of the City of Gaithersburg (the "Zoning Ordinance"), RST believes that the determination of the City Attorney and the Planning and Code Administration as set forth in the letter dated November 8, 2006, is clearly erroneous. Pursuant to Section 24-56, which identifies the uses permitted in the R-20 zone, multi-family residential uses and accessory uses such as off-street parking are permitted by right. Rental apartment uses have always been permitted on the Property under the standards of the R-20 zone, and the continuation of such uses would likewise be permitted under the Zoning Ordinance. The proposed renovation work on the Property does not involve any enlargement, increase, movement or structural alteration of the existing buildings. RST is simply proposing to renovate the existing structures. Therefore, pursuant to Sections 24-17, 24-18 and 24-19, the provisions applicable to non-conforming uses do not apply. In addition, Section 24-20 allows renovation and repair work to occur even on non-conforming uses where such work does not exceed 10% of the current replacement value of the structure. The proposed work does not exceed that amount.

Finally, pursuant to Section 24-168, there is no contemplated erection, movement, addition or structural alteration to the buildings that would require a Site Development Plan Amendment. As previously stated, RST is simply upgrading the existing structures.

REQUEST FOR RELIEF

We respectfully request that the Board of Appeals reverse the determination of the City Attorney and the Planning and Code Administration that a Site Development Plan Amendment is required for the continued use of the Property for rental apartments and any other related determinations by City Staff.

Respectfully submitted,
HOLLAND & KNIGHT, LLP

By: 

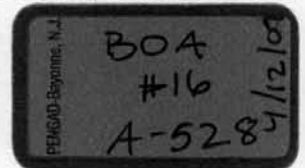
Robert R. Harris, Esq.
Holland & Knight, LLP
3 Bethesda Metro Center
Suite 800
Bethesda, MD 20814

Date: November 22, 2006

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS

RST DEVELOPMENT
70 WEST DEER PARK ROAD

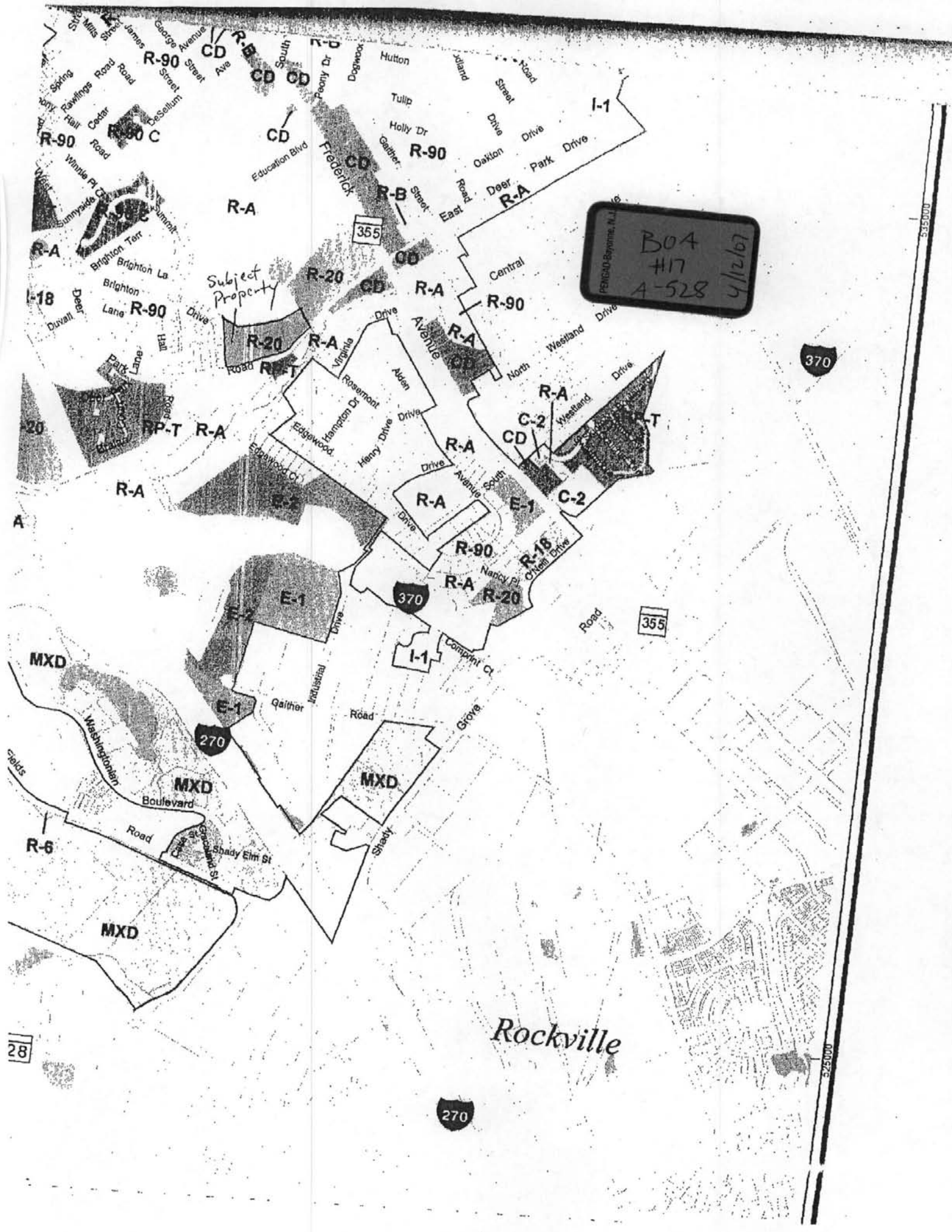
NAME	ADDRESS (Please add Zip Code)	LOT PARCEL	BLOCK	ACCOUNT #
Tomasz Gebala, Et Al	18019 Barley Corn Way Germantown, MD 20874	22	D	09-00840348
Herman Coleman, Jr.	4 Brighton Court Gaithersburg, MD 20877	21	D	09-00840337
Martha L. Hale	6 Brighton Court Gaithersburg, MD 20877	20	D	09-00840326
Maximo A. & Sofia Ramos	8 Brighton Court Gaithersburg, MD 20877	19	D	09-00840315
Matthew & C. Hudson	10 Brighton Court Gaithersburg, MD 20877	18	D	09-00840304
Susan E. Perper-Nicholson	12 Brighton Court Gaithersburg, MD 20877	17	D	09-00840292
Luciano & Carmen Vargas	14 Brighton Lane Gaithersburg, MD 20877	16	D	09-00840281
Moises Martinez Noemi Suero Melgar	30 Brighton Drive Gaithersburg, MD 20877	19	C	09-00840144
Andres A. Cruz, Et. Al	32 Brighton Drive Gaithersburg, MD 20877	20	C	09-00840155
Fernado & Vilma Mejia	34 Brighton Drive Gaithersburg, MD 20877	21	C	09-00840166
Robert C. Jee	35 Brighton Drive Gaithersburg, MD 20877	14	D	09-00840268
James D. & M. O'Connor	36 Brighton Drive Gaithersburg, MD 20877	22	C	09-00840177



NAME	ADDRESS (Please add Zip Code)	LOT PARCEL	BLOCK	ACCOUNT #
Mary M. & Cary A. Bloom	37 Brighton Drive Gaithersburg, MD 20877	15	D	09-00840270
Robert O. & Ou Rodriguez	38 Brighton Drive Gaithersburg, MD 20877	23	C	09-00840188
Kevin M. & Bernadette Ginley	40 Brighton Drive Gaithersburg, MD 20877	24	C	09-00840190
Jorge & M. C. Cabezas	42 Brighton Drive Gaithersburg, MD 20877	25	C	09-00840202
Jose R. & Marta A. Mancia	43 Brighton Drive Gaithersburg, MD 20877	23	D	09-00840350
Salvador & Dinora M. Rosales	44 Brighton Drive Gaithersburg, MD 20877	26	C	09-00840213
Robert S. & B.J. Conward	46 Brighton Drive Gaithersburg, MD 20877	27	C	09-00840224
Fairfield Broadstone LP	5510 Morehouse Drive Suite 200 San Diego, CA 92121	N939		09-00842770
Eugene B. Casey Found Trust	c/o Casey Mangt Inc. 800 S. Frederick Ave Suite 100 Gaithersburg, MD 20877	17		09-01470021
City of Gaithersburg	31 S. Summit Avenue Gaithersburg, MD 20877	P959		09-00777441
Steven R. Putnam	14 Virginia Drive Gaithersburg, MD 20877	5	B	09-00842633
John A. Arnold Dorothy Reitwiesner	16 Virginia Drive Gaithersburg, MD 209877	4	B	09-00842622
Francois D. & M.J. Martzloff	18 Virginia Drive Gaithersburg, MD 20877	3	B	09-00842848

NAME	ADDRESS (Please add Zip Code)	LOT PARCEL	BLOCK	ACCOUNT #
Board of Education	850 Hungerford Drive Rockville, MD 20850	P389		09-00817968
City of Gaithersburg	31 S. Summit Avenue Gaithersburg, MD 20877	P196		09-00818165
Engineering Tech Services Corporation	200 Manor Circle Takoma Park, MD 20912	P183		09-00819502
City of Gaithersburg	31 S. Summit Avenue Gaithersburg, MD 20877	P197		09-00821620
City of Gaithersburg	31 S. Summit Avenue Gaithersburg, MD 20877	P7	G	09-00842666
Francois D. & M.J. Martzloff	18 Virginia Drive Gaithersburg, MD 20877	2	B	09-00842837
City of Gaithersburg	31 S. Summit Avenue Gaithersburg, MD 20877	P130		09-01584765

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B04
#17
A-528
4/12/67

PENNSYLVANIA, N.J.

Subject
Property

Rockville

28




March 22, 2007

Ms. Ashby Tanner
Law Section
The Gaithersburg Gazette
P.O. Box 6006
Gaithersburg, MD 20884

Dear Ashby:

Please publish the following legal advertisement in your March 28, 2007 issue of the *Gaithersburg Gazette*.

Sincerely,


Caroline Seiden
Planner

chs

ASSIGN CODE: PHA-528/Acc.#133649

NOTICE OF ADMINISTRATIVE REVIEW

The Board of Appeals of the City of Gaithersburg will hold an administrative review on A-528, filed by RST Development, LLC, on

THURSDAY
APRIL 12, 2007
AT 7:30 P.M.

or as soon thereafter as it may be heard in the Council Chambers at City Hall, 31 South Summit Avenue, Gaithersburg, Maryland. In accordance with Chapter 24, Article VII, Section 24-187 through 188 of the City Code, the applicant has requested an Administrative Review of a determination by City staff to decline to issue a Rental Housing License for the reoccupation of existing dwellings at West Deer Park Apartments, 70 West Deer Park Road, Parcel A, Gaithersburg, Maryland. This administrative review will be heard simultaneously with administrative review A-529, also filed by RST Development, LLC.

Further information may be obtained from the Department of Planning and Code Administration at City Hall, 31 South Summit Avenue, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

Caroline Seiden
Planner

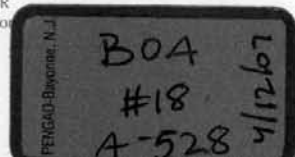
City of Gaithersburg • 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098

301-258-6300 • FAX 301-948-6149 • TTY 301-258-6430 • cityhall@gaitthersburgmd.gov • www.gaitthersburgmd.gov

MAYOR
Sidney A. Katz

COUNCIL MEMBERS
Stanley J. Alster
Geraldine E. Edens
Henry F. Marraffa, Jr.
John B. Schlichting
Michael A. Sesma

CITY MANAGER
David B. Humpton





Gaithersburg
A CHARACTER COUNTS! CITY

FAX TRANSMITTAL FORM

SEND TO:

Ashby Tanner
Gazette

FAX NO.:

FROM:

Caroline Seiden

Planning & Code Administration

FAX NO.:

301-258-6336

TELEPHONE NO.:

301-258-6330

DATE:

3/22/07

TIME:

10:45

NO. OF PAGES ATTACHED:

2

MESSAGE:

Ashby :
Please see the attached legal ads for
the March 28, 2007 Gaithersburg ~~B~~azette

**IF YOU EXPERIENCE DIFFICULTY IN RECEIVING THIS TRANSMISSION,
PLEASE CALL 301-258-6330**

City of Gaithersburg 31 South Summit Avenue Gaithersburg, MD 20877-2098
plancode@ gaithersburgmd.gov www.gaithersburgmd.gov

MAYOR
Sidney A. Katz

CITY COUNCIL MEMBERS
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John B. Schlichting
Michael A. Sesma

CITY MANAGER
David B. Humpton

CITY OF GAITHERSBURG
31 South Summit Avenue
Gaithersburg, Maryland 20877
Telephone: 301-258-6330

**BOARD OF APPEALS
NOTICE OF ADMINISTRATIVE REVIEW**

In accordance with Section 24-187 through 190 of the City of Gaithersburg Zoning Ordinance, the City of Gaithersburg Board of Appeals will conduct Administrative Reviews as noted below.

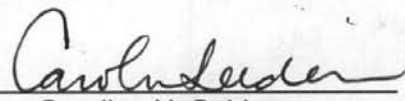
Application Type: **ADMINISTRATIVE REVIEW**
File Numbers: **A-528 and A-529**
Location: **70 WEST DEER PARK ROAD**
Petitioner: **RST DEVELOPMENT, LLC**
Day/ Date/Time: **THURSDAY, APRIL 12, 2007, 7:30 P.M.**
Place: **COUNCIL CHAMBERS
31 SOUTH SUMMIT AVENUE**

The applications request an Administrative Review of a determination by City staff refusing to issue a renewal of a rental housing license and requiring a site plan amendment approval from the Planning Commission prior to the reoccupation of existing dwellings at West Deer Park Apartments, 70 West Deer Park Road, Parcel A, Gaithersburg, Maryland. Administrative Reviews A-528 and A-529 will be consolidated and heard simultaneously.

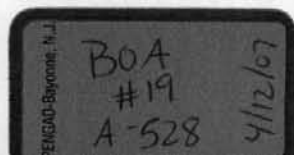
As per Section 2.4(b) of the Board of Appeals Rules of Procedure, persons or associations intending to appear in opposition to a petition whether or not represented by counsel, must file a prehearing statement no later than seven (7) days prior to the date of the hearing. Nothing in this section should be construed to limit the rights of individual members of the public to submit testimony during the hearing or to submit pertinent written materials at any time while the record remains open. However, please note Section 2.4(d) relating to the Board's authority to prohibit the testimony of a party's witness not identified due to the failure to comply with Section 2.4(a) and/or (b).

Further information may be obtained from the Department of Planning and Code Administration at City Hall, 31 South Summit Avenue, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

CITY OF GAITHERSBURG

By: 
Caroline H. Seiden
Planner

(over)



NOTICES SENT THIS 28TH DAY OF MARCH, 2007 TO:

PETITIONER :

RST Development, LLC, 6001 Montrose Road, Suite 710, Rockville, MD 20852

INTERESTED PARTIES AND PROPERTY OWNERS WITHIN 200 FEET OF SUBJECT PROPERTY:

(A complete list of property owners notified is available in the Planning and Code Administration.)

CITY STAFF:

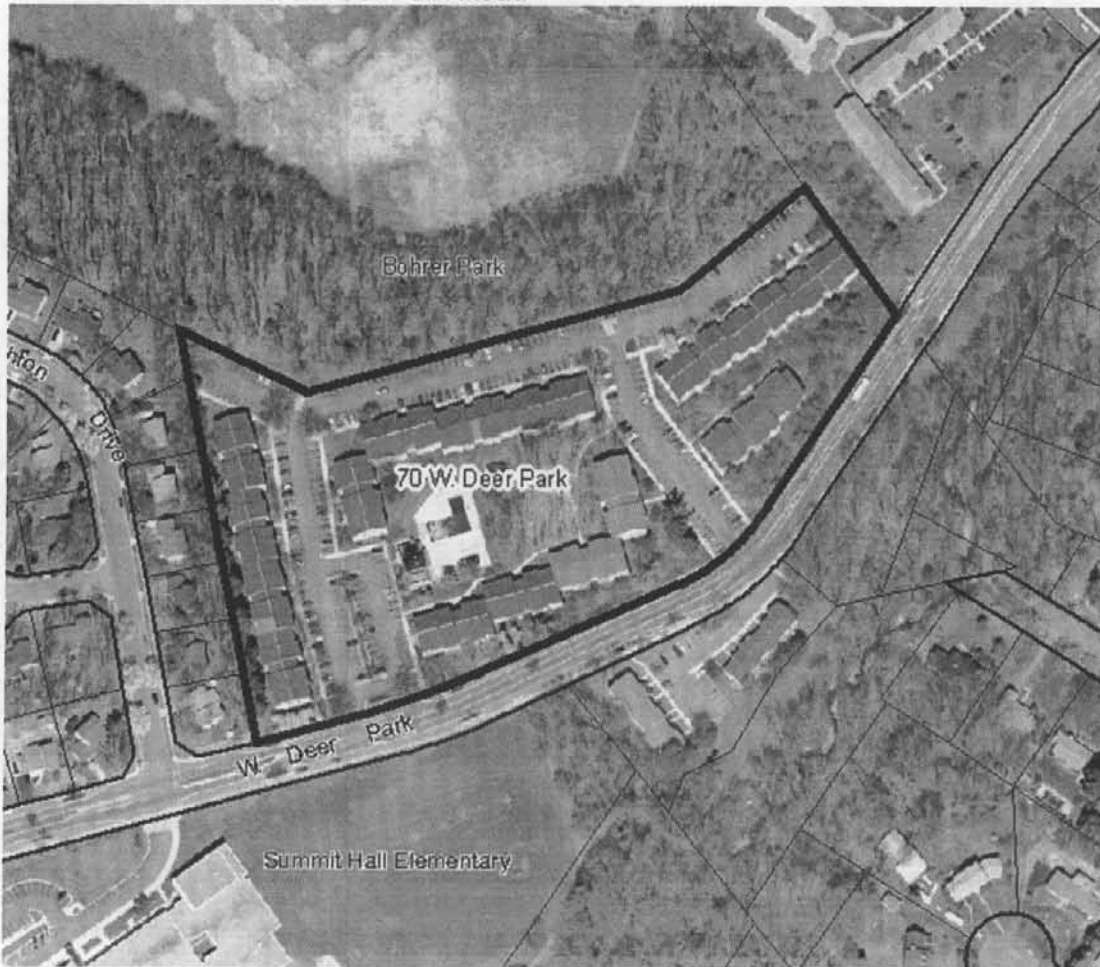
Dave Humpton, City Manager
Cathy Borten, City Attorney
Britta Monaco, Public Information Office
Doris Stokes, City Manager's Office
Greg Ossont, Director of Planning &
Code Administration
Trudy Schwarz, Community Planning Dir.
Jeff Baldwin, City Web Administrator (via email)

BOARD OF APPEALS MEMBERS:

Harvey Kaye, Chairperson
Richard Knoebel, Vice Chairperson
Gary Trojak
Victor Macdonald
Carol Rieg
David Friend, Alternate
William Chen, Attorney for the Board of Appeals

PLANNING COMMISSION

A-528/A-529 – 70 West Deer Park Road



BOARD OF EDUCATION
850 HUNGERFORD DR
ROCKVILLE MD 20850

ENGINEERING TECH SERVICES CORP
200 MANOR CIR
TAKOMA PARK MD 20912

FERNANDO & VILMA MEJIA
34 BRIGHTON DR
GAITHERSBURG MD 20877

JOHN A ARNOLD
DOROTHY REITWIESNER
16 VIRGINIA DR
GAITHERSBURG MD 20877

JOSE W ROMERO
32 BRIGHTON DR
GAITHERSBURG MD 20877

MARY M & CARY A BLOOM
37 BRIGHTON DR
GAITHERSBURG MD 20877

ROBERT O & O U RODRIGUEZ
38 BRIGHTON DR
GAITHERSBURG MD 20877

SALVADOR & DINORA M ROSALES
44 BRIGHTON DR
GAITHERSBURG MD 20877

WDP-RST LLC
6001 MONTROSE RD STE 1001
ROCKVILLE MD 20852

CAROLINE HUDSON
10 BRIGHTON COURT
GAITHERSBURG MD 20877

EUGENE B FOUNDTRUSTUST CASEY
C/O CASEY MANGT INC
800 S FREDERICK AVE STE 100
GAITHERSBURG MD 20877

FRANCOIS D & M J MARTZLOFF
18 VIRGINIA DRIVE
GAITHERSBURG MD 20877

JORGE & M C CABEZAS
42 BRIGHTON DR
GAITHERSBURG MD 20877

KEVIN M & BERNADETTE GINLEY
40 BRIGHTON DR
GAITHERSBURG MD 20877

MOISES MARTINEZ
NOEMI SUERO MELGAR
30 BRIGHTON DR
GAITHERSBURG MD 20877

ROBERT R. HARRIS, ESQ.
HOLLAND & KNIGHT, LLP
3 BETHESDA METRO CENTER
SUITE 800
BETHESDA MD 20814

SCOTT COPELAND
RST DEVELOPMENT, LLC
6001 MONTROSE ROAD
SUITE 710
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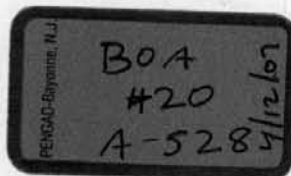
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**BOARD OF APPEALS
RESOLUTION OF DISMISSAL
OF PETITION
FOR ADMINISTRATIVE REVIEW**

A PETITION OF RST DEVELOPMENT, LLC, REQUESTING AN ADMINISTRATIVE REVIEW OF A CITY ACTION, PURSUANT TO SECTION 24-187(a) OF THE ZONING ORDINANCE (CHAPTER 24 OF THE CITY OF GAITHERSBURG CODE), REFUSING TO ISSUE A RENTAL HOUSING LICENSE FOR THE EXISTING DWELLINGS AT WEST DEER PARK APARTMENTS, 70 WEST DEER PARK ROAD, PARCEL A, GAITHERSBURG, MARYLAND.

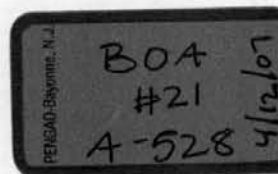
A-528

WHEREAS, administrative reviews are authorized pursuant to Article 66B, §4.07, of the Annotated Code of the State of Maryland, as amended, and §24-187(a) of the Zoning Ordinance, Chapter 24 of the City of Gaithersburg Code, which authorizes the Board to "hear and decide appeals where it is alleged that there is an error in any final order, requirement, decision or determination made by any administrative official or department of the city government ... in the enforcement and administration of this chapter, the building code, subdivision regulations or any other ordinance or regulation which may hereafter be designated for such administrative review by the city council ...;" and

WHEREAS, RST Development, LLC filed Administrative Review A-528 and required documents on February 15, 2007 concerning an alleged oral decision by Neighborhood Services Director Kevin Roman that the City would not issue a Rental Housing License for the reoccupancy of existing dwellings at West Deer Park Apartments, 70 West Deer Park Road;

WHEREAS, RST Development, LLC subsequently filed a second Administrative Review, A-529, in response to a written final determination addressing the Rental Housing License made by Planning and Code Administration Director Greg Ossont in a letter dated February 22, 2007 and;

WHEREAS, the Board of Appeals began a public hearing on the Administrative Review A-528 on April 14, 2007 and;



WHEREAS, RST Development, LLC and the City of Gaithersburg Planning and Code Administration jointly submitted a stipulation stating that the oral communication provided by Neighborhood Services Director, Kevin Roman, was not a final decision on the rental license and the filing of Administrative Review A-529 rendered Administrative Review application A-528 moot and;

WHEREAS, RST Development, LLC and the City of Gaithersburg Planning and Code Administration further stipulated that no testimony, evidence and/or argument will be submitted at the April 12, 2007 hearing on Administrative Review A-528 and;

WHEREAS, the Board of Appeals concludes that Administrative Review A-528 is moot.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED by the Board of Appeals of the City of Gaithersburg on the 14th day of April, 2007, that Case A-528, the petition of RST Development, LLC requesting an administrative review of a City action refusing to issue a Rental Housing License be, and it is, DISMISSED, with prejudice.

ADOPTED by the Board of Appeals of the City of Gaithersburg on the 14th day of April, 2007. Board Members Kaye, Knoebel, Macdonald, Trojak and Rieg being present and voting in favor of the action.

Harvey Kaye, Chairperson
Board of Appeals

DATE

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the City of Gaithersburg Board of Appeals, in public meeting assembled, on the 14th day of April, 2007.

Caroline H. Seiden, Planner
Staff Liaison to the Board of Appeals

Any decision by the City Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a part to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

The Board of Appeals may reconsider its decision in accordance with its Rules of Procedure upon the request of any party; provided such request is received by writing not more than ten (10) days from the date the Board of Appeals renders its final decision.

DRAFT